

# Creation of International Dairy Hygiene Standards

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M.A. Project

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## Introduction

The harmonization of international food safety standards has significant implications for U.S. businesses and consumers. International standard setting provides opportunities to raise international standards and thus protect U.S. commercial interests and American consumers. However when harmonized standards are set lower than domestic standards, the U.S. Food and Drug Administration (FDA) can come under pressure to lower domestic health and safety regulations to international levels, which can increase liability risk for businesses and decrease protection for American consumers.

The Codex Committee on Food Hygiene (CCFH) is currently drafting *The Code of Hygienic Practice for Milk and Milk Products* (Milk Code)—a set of harmonized hygiene standards for internationally traded dairy products. To date, the U.S. cheese industry has not gotten involved in the drafting process. However the Milk Code will have an immediate affect on the industry:

- If a standard lower than the current U.S. domestic standard is adopted (and the current draft of the Milk Code *is* lower than the U.S. standard), the United States will at a minimum be forced to defend its higher standard in the WTO because the WTO Dispute Settlement Body (DSB) relies on Codex standards when settling international trade disputes involving food safety regulations.
- If a low standard is adopted, the United States also will come under pressure to lower its standard, and a lower standard will increase the incidence of food-born illnesses linked to cheese consumption—a significant financial and consumer confidence issue for the industry.
- If a standard equivalent to the current U.S. domestic standard is adopted, U.S. cheese producers will enjoy an advantage in international cheese markets until foreign producers can modify their production practices to conform to this high standard.

## Goals

This paper is designed to demonstrate to U.S. Cheese Industry Association (USCIA) members that the costs of participating proactively in the Codex process are much less than the costs they would incur if an international standard lower than the current U.S. standard is adopted. The paper presents the history and current challenges of creating international dairy hygiene standards, as well as a description of the legal and commercial implications for the U.S. cheese industry of the *Code of Hygienic Practice for Milk and Milk Products* as it is currently drafted. The paper also analyzes the political, institutional, and policy aspects of the issue and provides both policy recommendations and an action strategy for USCIA members.

This paper does not address whether or not the WTO should rely on Codex to set standards, recommendations and guidelines; to what degree the U.S. should adhere to Codex standards, recommendations and guidelines; whether the WTO needs to clarify how its DSB will interpret Codex recommendations and guidelines as opposed to Codex standards; or issues of transparency within the WTO and in Codex. While these are interesting and timely questions, they are beyond the scope of this paper.

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## Scenario

For the purposes of this project I assume the fictitious role of assistant to the Vice President for International and Government Affairs of a fictitious industry association, the U.S. Cheese Industry Association (USCIA). I have been tasked with writing a report that 1) updates USCIA members on the status of the Codex standards, and 2) offers recommendations and a strategy for ensuring that USCIA's interests are reflected in the Codex standards.

I chose harmonization of dairy hygiene standards for my project topic because I am interested in food safety, dispute settlement and international harmonization of standards. As traditional barriers to trade fall, international cooperation and harmonization will become increasingly important to achieve universal goals such as food safety.

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## Executive Summary

### Issue

The Codex Committee on Food Hygiene (CCFH) is in the process of drafting *The Code of Hygienic Practice for Milk and Milk Products* (Milk Code)—a set of harmonized standards for internationally traded dairy products. As currently drafted, these standards are lower than U.S. standards; they do not require pasteurization or other equivalent measures although such measures have been scientifically proven to protect consumer health. Because WTO dispute settlement panels often rely on Codex standards in settling food safety disputes, the standard as currently written could put pressure on the U.S. Food and Drug Administration (FDA) to lower its standards. Among other outcomes, this could expose the U.S. cheese industry to greater liability, increase USCIA’s lobbying costs, change commercial conditions for the industry, and decrease consumer confidence in cheese as a safe product. All of these outcomes would have a negative affect on the profitability and competitiveness of the U.S. cheese industry.

### Background

The Codex Alimentarius Commission (Codex), headquartered in Rome, Italy is an international non-governmental organization that was established to promote both food safety and international trade. The World Trade Organization (WTO) recognizes Codex as the body responsible for setting international food safety standards, and it uses Codex standards as benchmarks in settling international trade disputes. According to the WTO’s Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), nations that maintain standards higher than Codex must provide scientific justification for doing so.

For the past 15 years, the Codex Committee on Food Hygiene (CCFH) has worked continuously to harmonize international dairy hygiene standards. Progress has stalled primarily due to differences between the United States and France regarding the acceptable level of public health risk associated with raw milk products, particularly cheese.

- The U.S. position is that raw milk products are “potentially hazardous foods” that can support the rapid growth of toxigenic microorganisms and may pose significant public health threats. U.S. law mandates that pasteurization or equivalent processing methods be used to ensure the safety of milk products sold in the United States.
- The French (and EU) position is that the health threats posed by these foods can be minimized through good veterinary practices and that pasteurization or other equivalent measures should not be required. EU law (which the French follow)

mandates that raw milk cheese be free from harmful bacteria but does not mandate pasteurization or equivalent production methods.

Last March, in order to break this 15-year impasse between the United States and France, U.S. delegates, as well as the other CCFH members, agreed to a French proposal to first determine the end use of milk and then identify steps necessary to reduce consumer risk for these end uses. With this as the basic framework, the CCFH is currently developing international dairy hygiene standards that will be forwarded to the Codex Alimentarius Commission for adoption.

### **Implications for the U.S. Cheese Industry**

If Codex were to adopt standards for cheese that are lower than those maintained by the United States, the FDA would come under pressure to lower its current sanitary requirements for domestically produced and imported cheese. Lower standards would expose American consumers to more food-borne pathogens and would dramatically increase the U.S. cheese industry's liability risk. Outbreaks of food-borne illness related to cheese cost the U.S. cheese industry several million dollars annually. Lowered safety requirements could dramatically increase these costs.

In the past, the U.S. cheese industry has been among those most protected by the government. However new U.S. commitments in the WTO have already begun to erode this protection, and future agriculture negotiations are expected to continue if not accelerate this trend. The U.S. cheese industry must become involved in the Codex drafting process if it is to ensure that its interests will be protected in the future.

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## **Recommendations**

USCIA's International and Governmental Affairs Department recommends that USCIA pursue a strategy to ensure that the Codex Milk Code protects the interests of the domestic cheese industry and American consumers.

The Code should include a general principle that recognizes the health risks associated with raw milk cheese, and it should include the following standard. Annexes can be used to provide specific detail, scenarios, and exceptions.

*All ready to eat (RTE) cheese sold internationally shall be aged for no less than 60 days at a temperature of no less than 39 degrees Fahrenheit, or the milk used in cheese production shall be subject to one of the following measures: irradiation, pasteurization, sterilization, heat-treatment, or other technologies not yet developed but that achieve results comparable to these processes.*

This recommendation is likely to be accepted by all CCFH member countries for several reasons:

- It includes a pasteurization or equivalent measure requirement, and therefore, will likely be acceptable to the FDA, the body that negotiates in Codex on behalf of the U.S. cheese industry.
- It fits the structure of the existing agreement and can easily be incorporated into it.
- It is based on scientific evidence.
- It is pragmatic; it allows multiple options to meet the standard and even allows for exceptions.
- It does not affect domestic cheese production for domestic sale in any country.
- It mirrors existing U.S. law and has support from the U.S. government, most of the U.S. industry, and U.S. NGOs.

The current listeriosis<sup>1</sup> outbreak in France has increased the likelihood that France will accept a pasteurization or equivalent measure standard as part of the Code. The outbreak has heightened public awareness of the potential dangers of raw dairy products and increased public calls for the government to take steps to protect the French population.

U.S. Codex delegates are well positioned to shape international dairy hygiene standards; as the lead drafting country, the United States is charged with structuring the Milk Code and creating drafts.

### **Strategy**

USCIA has developed a three-part strategy for ensuring that the Codex Alimentarius Commission (CAC) adopts the standard outlined above.

- The first part is designed to secure U.S. industry or government support for a pasteurization or equivalent measure standard.
- The second and largest part of the strategy focuses on ensuring that the French will accept the standard. By providing the French citizenry with information on listeria and other harmful bacteria commonly present in cheese, USCIA can build on the momentum created by the French public's concerns about listeria.
- The third part of the strategy is designed to garner support among other Codex delegates who serve on the CCFH and have a substantial interest in ensuring that Codex adopts high dairy hygiene standards.

USCIA should implement this strategy immediately after receiving approval from its members. The goal should be to get the CCFH, at its next (October 2000) meeting, to unanimously agree to the recommended standard and to incorporate it into the *Code of*

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*Hygienic Practice for Milk and Milk Products*. The standards could then be forwarded to the full CAC for adoption at its July 2001 meeting.

If this timeline cannot be met, USCIA recommends that the standard be incorporated into the Code as soon as possible and that the full set of standards be forwarded to the CAC for approval in July 2003. The costs for a one-year strategy are estimated at \$575,000; a three-year strategy will cost an estimated \$900,000. This is a relatively small price to pay to ensure that U.S. industry interests are satisfied in the Codex international dairy hygiene standards. USCIA will not ask for additional funding, but will draw this money from annual membership dues.

### **Conclusion**

The timing is right for USCIA to take a proactive role in the creation of Codex dairy hygiene standards:

- The standards are currently being drafted.
- U.S. Codex delegates are well positioned to influence the drafting process.
- The listeria outbreak in France has opened a window of opportunity to overcome French opposition.
- A proactive approach will be less costly to the industry than a reactive one.

## **Background**

### **Agreement on the Application of Sanitary and Phytosanitary Measures**

Rules for trade in agriculture and food products were incorporated into the General Agreement on Tariffs and Trade (GATT) for the first time as part of the Uruguay Round (UR) of multilateral trade negotiations (1986-1993). In order to ensure that these newly negotiated agricultural tariff reductions would not be circumvented by the establishment of non-tariff, standards measures, the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) was also negotiated.<sup>2[2]</sup> The SPS Agreement imposes discipline on how member countries may restrict trade in order to protect human, animal and plant populations, yet it also reaffirms a member's sovereign right to protect human, animal and plant life or health at the level it considers appropriate. The most important features of the Agreement are:

- **Sound Scientific Evidence**

Under the SPS Agreement, any protective measure must be “based on scientific principles and

... not maintained without sufficient scientific evidence ...”<sup>3</sup>[3] Scientific evidence can take the form of either a risk analysis or adherence to an international standard.<sup>4</sup>[4] When scientific evidence is insufficient, a member may adopt a provisional measure based on the best information available. The provisional measure must be temporary and the information for an objective risk assessment must be obtained within a reasonable period of time.<sup>5</sup>[5]

- **Risk Assessment**

Protective measures must also be shown to be “based on an assessment, as appropriate to the circumstances, of the risks to human, animal, or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.”<sup>6</sup>[6] While each country is allowed to decide how to conduct its own risk assessments, Articles 5.2 and 5.3 of the Agreement contain scientific and economic factors, respectively, which must be taken into account during all assessments. Codex Alimentarius delegates and other experts are currently developing risk assessment methodologies in an attempt to standardize them.

- **Appropriate Level of Protection**

Once science provides evidence of the need to protect against risk, a country is also allowed to decide for itself what measure will best protect its population. Such decisions involve determining an “acceptable level of risk,” or the amount of risk to which the government believes its population can safely be exposed. The determination remains within the sovereign discretion of each member country and can be based on a country’s societal values. It does not need to be based on scientific evidence. <sup>7</sup>[7] Articles 5.4 and 5.5 provide only a few conditions for establishing the appropriate level of protection. For example, a country “should ... take into account the objective of minimizing negative trade effects” and “shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade.”<sup>8</sup>[8]

- **Higher Level of Protection**

After a risk assessment, a country is free to adopt a higher level of protection than the international standard or the standard adopted by its trading partners: 1) if there is scientific justification or; 2) as a consequence of the level of protection a country determines to be appropriate to protect its population.<sup>9</sup>[9] The burden of proof for justifying a standard is on a country that adopts a higher standard; it must show that a lower standard would not provide the appropriate level of protection.

- **International Harmonization**

The SPS Agreement encourages harmonization of sanitary and phytosanitary measures “on as wide a basis as possible”<sup>10</sup>[10] based on the standards, recommendations, and guidelines of three organizations: the Codex Alimentarius Commission (for food standards); the International Office of Epizootics (for animal standards); and the international and regional organizations operating within the framework of the International Plant Protection

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Convention (for plant standards).<sup>11</sup>[11] Harmonization is defined as the “establishment, recognition, and application of common sanitary and phytosanitary measures by different Members.”<sup>12</sup>[12]

- **Equivalence**  
Uruguay Round negotiators recognized that countries would not always be willing to accept full standards harmonization, so they negotiated an equivalency provision. Article 4 of the SPS Agreement says that a country must accept as equivalent the measure of another country that provides the same level of protection. Equivalency determinations are to be based on science and must be verifiable through inspection, testing and other procedures.<sup>13</sup>[13]
- **Transparency**  
Countries must make known their sanitary and phytosanitary measures. They must publish for notice and comment any proposed regulation that is not based on an international standard and that may have a significant effect on trade; they must notify other countries of the product coverage and must explain the objective and rationale of a proposed regulation.<sup>14</sup>[14] There must be a delay between the publication of a final regulation and its effective date so that producers have time to adapt to the new rule.
- **Committee on Sanitary and Phytosanitary Measures**  
Article 12 of the SPS Agreement established a Committee on Sanitary and Phytosanitary Measures to implement the Agreement. The Committee monitors the harmonization and use of standards, provides a regular forum for consultations, encourages the use of international standards, and acts as an intermediary in disputes. The Committee must promote and encourage the use of harmonized standards through the international bodies identified in the Agreement. It also must maintain close contact with these bodies to ensure that harmonization is proceeding and to avoid unnecessary duplication of efforts. <sup>15</sup>[15]

## **Codex Alimentarius Commission**

The Codex Alimentarius Commission (Codex), headquartered in Rome, Italy, is an intergovernmental, United Nations (UN) based organization that establishes international food standards to protect consumers’ health and facilitate world trade. Codex was created in 1962 by two UN organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO).<sup>16</sup>[16] At its inception, Codex set identity standards, or descriptive standards, that were designed to facilitate trade. For example, Codex created a set of descriptive standards for products such as “olive oil” so that buyers from around the world would know that “olive oil” is made only from olives, should be clear and free from contaminants, and may range in color from light yellow to dark green.

Codex standards have taken on new significance since Codex was identified in the SPS Agreement as the international body charged with harmonizing food safety standards. Now the WTO looks to Codex standards when settling trade disputes.<sup>17</sup>[17] Codex describes its significance by stating that its “standards

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have become an integral part of the legal framework. . . . Already, they have been used as the benchmark in international trade disputes, and it is expected that they will be used increasingly in this regard.”<sup>18]</sup>

Codex is organized by committees. Commodity committees work on all topics related to a particular food grouping. Horizontal committees work on issues that apply across all commodity committees. The Codex Committee on Milk and Milk Products (CCMP), for example, is a commodity committee that creates standards, regulations and guidelines for all internationally traded dairy products. The Codex Committee on Food Hygiene (CCFH) is a horizontal committee that drafts hygiene standards, regulations, and guidelines that can apply to all standards drafted by the CCMP.

The Codex Alimentarius Commission (CAC) meets every two years and is responsible for adopting standards. The CAC prefers to adopt standards on the basis of consensus, but is not required to do so.<sup>19]</sup> Proposed standards must go through a formal eight-step process before they can be adopted by the full Commission. Standards proposals originate from Codex member countries and progress through a committee composed of government delegates from member countries. Committees meet annually.

## Codex Procedure for Adopting Standards

Steps	Procedures at each step
<b>Step 1</b>	Member government proposal submitted to a Codex committee.
<b>Step 2</b>	Draft code elaborated by a member country government within the Committee.
<b>Step 3</b>	Draft code circulated to member countries and international organizations for comment.
<b>Step 4</b>	Draft code with comments goes back to the Codex committee.
<b>Step 5</b>	Draft code revised and submitted to the Codex Alimentarius Commission for consideration.
<b>Step 6</b>	Revised draft code circulated to member countries and international organizations for comment.
<b>Step 7</b>	Draft code with comments considered by the Codex committee. Codex Alimentarius

	Commission either adopts the code or sends it back to committee for revision.
<b>Step 8</b>	Codex Alimentarius Commission adopts a code of practice, which is circulated to member countries and international organizations.
<b>Step 9*</b>	International standard referred to by WTO in settling trade disputes.

\*Not a formal Codex step, but *de facto* event as a result of the Uruguay Round Agreement.<sup>20</sup><sup>[20]</sup>

## U.S. Codex Involvement

The United States' Codex delegation keeps its office in Washington, D.C. The delegation is comprised of individuals from the U.S. Department of Agriculture (USDA), the Food and Drug Administration (FDA), and the Environmental Protection Agency (EPA). U.S. industry input comes directly from non-governmental organizations that participate as observers in Codex meetings or lobby the delegates. Some U.S. consumer groups are also granted observer status in CAC meetings.

In 1999, Thomas J. Billy, USDA Administrator for the Food Safety and Inspection Service was elected to a two-year term as chair of the CAC.<sup>21</sup><sup>[21]</sup> He will hold the position through June 2001 and will oversee the adoption of new Codex standards at the 24<sup>th</sup> Session of the CAC. In addition to holding the CAC Chair, the United States chairs four Codex committees: Food Hygiene; Cereals, Pulses and Legumes; Residues of Veterinary Drugs in Foods; and Processed Fruits and Vegetables.<sup>22</sup><sup>[22]</sup>

## Codex Dairy Hygiene Standards

Two Codex Committees have played key roles in establishing international hygiene standards for dairy products, the Codex Committee on Milk and Milk Products (CCMP) and the Codex Committee on Food Hygiene (CCFH).

- Codex Committee on Milk and Milk Products. The CCMP was integrated into the Codex system in 1993. It replaced the joint FAO/WHO Committee of Government Experts on the Code of Principles concerning Milk and Milk Products, which had existed since 1958. The CCMP is mandated to draft positions on all issues related to milk and milk products. However, the Codex Committee on Food Hygiene must approve all elaborations, clarifications, and new hygiene standards developed by the CCMP.
- Codex Committee on Food Hygiene. The CCFH is a horizontal committee that prepares or approves all Codex hygiene provisions. Food hygiene is

defined as "all conditions and measures necessary to ensure the safety and suitability of food at all stages of the food chain."<sup>23</sup><sup>[23]</sup> Among other projects, the CCFH is working on the Milk Code. It hopes to have standards adopted by the CAC in 2001 or 2003. After 15 years of negotiation, the CCFH now has a draft framework document and is currently negotiating general principles and details for the Code.

### **Code of Hygienic Practice for Milk and Milk Products**

In 1985, the former FAO/WHO Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products (now the CCMP) began work on a *Proposed Draft Code of Hygienic Practice for the Manufacture of Unripened Cheeses and Ripened Soft Cheese* (Soft Cheese Code). Work on the Soft Cheese Code stalled for over 10 years due to countries' differing views on the acceptable level of public health risk associated with raw milk cheese.

- U.S. Position. The U.S. maintains that scientific evidence demonstrates that raw milk and raw milk products are "potentially hazardous foods," or foods that support rapid growth of infectious or toxigenic microorganisms such as *Listeria monocytogenes*, salmonella, e.coli, and others, and that they pose significant public health threats.<sup>24</sup><sup>[24]</sup> Cheese poses a particularly high health risk because it is usually a ready-to-eat (RTE) product and will not be cooked before consumption. Cooking is one of the primary means of killing dangerous bacteria and eliminating consumer risk. The United States further notes that scientifically accepted production processes control the threat posed by raw milk and raw milk products. These processes "can include but are not limited to:
  - pasteurization of milk,
  - heat treatment of milk,
  - sterilization of milk,
  - aging of cheese, and
  - new technologies not yet developed."<sup>25</sup><sup>[25]</sup>

The U.S. position is reflected in U.S. law, which requires pasteurization or equivalent processing for all raw milk products.<sup>26</sup><sup>[26]</sup>

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- The European Commission's Position (lead by France includes Italy, Switzerland and Denmark). The European Commission's (EC's) position is that consumer safety is protected when strict veterinary and sanitary practices are followed from production to consumption for ready-to-eat raw milk dairy products including cheese. These sanitary practices include:
  - using raw milk from herds that are in good health and that have regular veterinary inspections and are subject to regular sanitary controls;
  - using milk that is collected, transported, stocked and transformed within a short period of time while applying strict hygienic rules; and
  - educating consumers about proper storage conditions and shelf life of end products.<sup>27</sup><sup>[27]</sup>

The French Delegation maintains that these common hygiene provisions provide adequate health protection without mandatory pasteurization.<sup>28</sup><sup>[28]</sup> Their position is reflected in EU law.<sup>29</sup><sup>[29]</sup>

The differences between the U.S. and the European positions stem from different cultural views regarding food safety. Generally, the European system of food regulations supports traditional production practices. "Regulators and consumers believe that these practices and the foods they produce are safe, and importantly for most European consumers, close to nature and naturalness."<sup>30</sup><sup>[30]</sup> Raw milk cheese and traditional cured meats "are prized by European consumers and permitted by regional and national regulations, which accord some of these products geographical indications. Their safety is assumed, based on centuries of experience rather than on laboratory science."<sup>31</sup><sup>[31]</sup> Americans on the other hand, often view traditional methods of production as unsafe. "These views are reflected in the regulatory structure, which relies on scientific views and provides a climate that encourages new food technologies while exhibiting skepticism about the safety of some foods produced according to traditional practices."<sup>32</sup><sup>[32]</sup>

While the U.S. and EC have not changed their basic positions, Codex work on safety standards for soft cheeses resumed when, at the CCFH's 29<sup>th</sup> Session in 1996, the United States proposed that the CCFH work on a broader *Draft Code of Hygienic Practice for Milk and Milk Products*. The United States was given the role of lead drafting country and was assigned the task of preparing a discussion paper and a draft outline of the Milk Code for presentation at the next CCFH session. France and the International Dairy Federation (IDF) <sup>33</sup><sup>[33]</sup> were assigned to assist the United States in this effort (Codex Step 1).

During the 30<sup>th</sup> Session in 1997, the CCFH considered the draft outline prepared by the United States, France and the IDF and agreed to the development of a Milk Code. The CCFH assigned the task of elaborating the Code to a drafting group that included the United States (lead country), Argentina, Australia, France, India, Netherlands, New Zealand, United Kingdom, Uruguay, and the IDF. During this session, the Committee also agreed to stop work on the *Proposed Draft Code of Hygienic Practice for the Manufacture of Unripened Cheeses and Ripened Soft Cheese* with the understanding that these products would be included in the comprehensive Milk Code.

At this same meeting, the CCFH was asked to review seven hygiene provisions for dairy-product commodity standards that had been drafted by the CCMP. According to Codex procedure, any hygiene provisions that are part of any Codex standards, recommendations, or guidelines must be approved by the CCFH. The CCMP standards submitted to the CCFH for endorsement included no provisions requiring pasteurization. At the instance of the U.S. delegates on the CCFH, an eighth standard was proposed for

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consideration that read, “Pasteurization, or an equivalent measure approved by the official agency having jurisdiction, shall be used in order to achieve the appropriate level of public health protection.”<sup>34</sup>

France, Switzerland, Italy and Denmark strongly opposed the U.S. proposed provision. However, Canada, Japan, Thailand, New Zealand, and Australia supported it. After intense discussions, the CCFH did not include the eighth standard, but neither did it endorse the other seven standards. When the CCFH forwarded the dairy commodity standards to the CAC for approval, both the United States and France submitted written reservations. In its reservation, the United States stated that “the public health benefits that pasteurization provides had been scientifically established, internationally recognized, and were irrefutable.” The French reservations stated that, “common hygiene provisions provide adequate health protection without pasteurization.”<sup>35</sup> The CAC noted the U.S. and French reservations and adopted the dairy commodity standards, without specific pasteurization requirements, during its 22<sup>nd</sup> Session in July 1999.

While this issue—the issue that had stalled work on the Soft Cheese Code for 10 years—was not directly related to the Milk Code drafting process, it highlighted national differences in public health protection related to raw milk products. It was a reminder to the drafting group of the difficult work that lay before them.

Between the 30<sup>th</sup> and 31<sup>st</sup> Sessions of the CCFH, the United States and the other drafting countries proceeded to elaborate the standards in the draft Milk Code (Codex Step 2). At the 31<sup>st</sup> Session in 1998, the United States, on behalf of its drafting partners, presented the *Proposed Draft Code of Hygienic Practice for Milk and Milk Products* with no language addressing pasteurization, and the proposal was opened for member country comments (Codex Step 3). One of the primary areas of discussion concerned the placement of provisions for raw milk products. Members from France, Italy, Switzerland, and Denmark and many former French colonies<sup>36</sup> strongly opposed requiring pasteurization or equivalent measures. The United States, Canada, New Zealand, Australia, Japan, Thailand, Brazil, and other nations supported requiring pasteurization or equivalent measures due to the significant public health protection such measures provide.

The CCFH recognized that several issues would need to be resolved before it would be able to reach consensus on the Milk Code. CCFH delegates agreed that the drafting group should first identify from official country comments any outstanding issues and then revise the Milk Code for presentation at the 32<sup>nd</sup> Session of the CCFH on October 25-29, 1999.

The drafting group identified six major areas that needed further discussion:

1. The use of annexes to describe control measure details.
  2. Provisions for raw milk products.
  3. The prescriptive nature of the primary production section.
  4. Provisions for the validation of control measures.
  5. Expansion of scope to include suitability.
  6. Shelf-life issues.
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Instead of trying to redraft the code, the drafting group held an interim working group meeting in March 1999 in order to try to reach consensus on these issues.<sup>37</sup><sup>[37]</sup> The meeting achieved a significant breakthrough when delegates agreed that they should draft overarching general principles that would be elaborated in annexes. The annexes could provide detail to explain and illustrate how the principles may be met in practice. They included a sample of a general provision that read: “Depending on the end use of milk, further processing steps, shelf-life, etc., hazard levels should be kept low enough so as not to result in an unacceptable risk to the consumer.” They explained further that this principle could be elaborated in an annex to explain how it should be met in practice.

The United States incorporated the interim session agreements into a framework document, which it presented at the 32<sup>nd</sup> Session of the CCFH.<sup>38</sup><sup>[38]</sup>

## **Current Status of the Milk Code**

During its 32<sup>nd</sup> Session ending December 4, 1999, the CCFH endorsed the basic framework of the *Draft Code of Hygienic Practice for Milk and Milk Products* and assigned the drafting group the task of creating general principles and incorporating appropriate details in annexes.<sup>39</sup><sup>[39]</sup> They also agreed to the U.S. proposal to move the Code from Step 4 back to Step 3 in the Codex procedure for elaborating standards. This sent the new framework agreement back to member governments for comment, but the drafting group has concurrently begun the technical work of drafting general principles and technical standards. The CCFH will meet in October 2000 to review progress, revise the draft, and plan future work.<sup>40</sup><sup>[40]</sup>

## **Effects of Codex Standards on the U.S. Cheese Industry**

### **Legal Issues**

The SPS Agreement was negotiated during the UR in response to negotiators’ realization that countries sometimes need to be able to restrict trade in order to protect human, animal and plant populations. In an attempt to ensure such an ability, while also ensuring that barriers would not be erected based on commercial, cultural, legal, political or economic concerns, the SPS Agreement requires that science be the basis for any restrictive trade measure taken for safety purposes.

The SPS Agreement indicates that Codex is the intergovernmental body responsible for harmonizing food safety standards, in part, because Codex relies on science as a basis for its international standards, guidelines and recommendations. Marsha Echols explains that Codex’s multilateral standards now represent an international, science-based consensus. She states, “This will be the case even when the organization adopts a guideline instead of a standard and even before the standard or related text has been implemented by a majority of members of the organization.”<sup>41</sup><sup>[41]</sup>

Echols’ point is an important one. WTO Member nations that properly apply Codex standards and follow guidelines and recommendations are almost automatically considered to be in accordance with the SPS Agreement. Echols explains, “A measure which is based on an international standard is given ‘safe harbor.’ When challenged it will be ‘deemed’ necessary and ‘presumed’ to be in accordance with the Agreement . . . .”<sup>42</sup><sup>[42]</sup>

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Jeffrey Schott's interpretations are similar. He writes, "Policies that are consistent with international SPS standards will presumably be considered consistent with the GATT rules and not open to challenge by other countries."<sup>43</sup><sup>[43]</sup> Conversely, when a country fails to follow an international standard, guideline or recommendation, it must give an indication as to why the international standard, guideline or recommendation does not provide the appropriate level of protection for its populations. Schott further explains that in cases where a nation adopts standards that are higher than internationally harmonized standards, "the country is allowed to set its own risk levels but must undertake an assessment of the risk that takes into account both environmental and economic factors."<sup>44</sup><sup>[44]</sup>

Essentially, standards adopted through the Codex system become international law, and the WTO Dispute Settlement System defers to them. If Codex adopts the current version of *The Code of Hygienic Practice for Milk and Milk Products* without adding pasteurization or an equivalent measure requirement, the United States will have to either lower its existing standards or justify its higher standards. If the United States chooses to lower its standards, the cheese industry will be exposed to increased liability risk, which could potentially cost the industry millions of dollars. If the FDA chooses to maintain its current policies and maintain high sanitary standards, the U.S. government will likely be forced to defend its standards at a cost of between \$500,000 and \$2 million.

### **Commercial Issues**

The costs associated with food-borne illnesses are large and are absorbed by both the private and public sectors. The National Restaurant Association estimates that an outbreak of food-borne illness costs a business more than \$75,000 on average.<sup>45</sup><sup>[45]</sup> The CDC estimates federal costs average \$200,000 per food-borne illness outbreak. The CDC also estimates that the combined cost to business and government of all food-borne illness in the United States in 1993 (an average year) were between \$5.6 and \$9.4 billion.<sup>46</sup><sup>[46]</sup>

### **Costs to Industry**

In the private sector, businesses bear the expense of recalls and sales losses. Additionally, businesses are usually held liable for the outbreak and are frequently sued for damages. Both business and industry associations spend considerable money and energy in "damage control" and on trying to regain lost consumer confidence after an outbreak.

One bacteria of particular concern to the U.S. cheese industry is *Listeria monocytogenes*, which causes the disease listeriosis. U.S. regulatory agencies are also concerned with this bacteria due to its prevalence and toxicity. It is also among the few bacteria that can cross the placental barrier from mother to fetus and frequently cause spontaneous abortion. Adopting Codex standards that are lower than those maintained by the United States and a subsequent relaxation of U.S. standards by the FDA could result in huge losses for the U.S. cheese industry. Indeed, as Echols notes, U.S. food safety laws tend to fall on the side of caution partially because of the fear of product liability claims, which is a greater threat in the United States than in other countries.<sup>47</sup><sup>[47]</sup> According to Tracy Irwin Hewitt from the Councils on Food, Agricultural and Resource Economics, "The high mortality rate of listeriosis causes significant economic losses to the food

industry in lost sales and liability.”<sup>48</sup><sup>[48]</sup> Specific examples of the costs associated with *Listeria monocytogenes* and listeriosis in the United States and abroad include the following:

### 1. Liability

- In a very recent case, a couple who lost a one-day-old baby to listeriosis filed a wrongful death and product liability lawsuit against Bil mar Foods, a subsidiary of Sara Lee. The couple is seeking more than \$25,000 for each of six claims filed in the lawsuit.<sup>49</sup><sup>[49]</sup>
- In 1999, three executives from a cheese company in Burgundy, France were charged with involuntary manslaughter after several people died as a result of a listeria outbreak related to their cheese.<sup>50</sup><sup>[50]</sup>

### 2. Recalls

- According to the National Cheese Institute, public recalls cost the dairy industry millions of dollars every year.<sup>51</sup><sup>[51]</sup>
- Last year, Kohler Mix Specialties, Inc. recalled all milk and milk products that *might* have been contaminated with *Listeria monocytogenes*. A nationwide recall such as this costs upwards of \$1 million.
- Thorn Apple’s current recall of 30 million pounds of hot dogs *possibly* contaminated with Listeria is expected to cost \$1-7 million.
- Sara Lee is currently recalling Listeria-contaminated processed meats that have resulted in 11 confirmed deaths. The recall is expected to cost the company \$76 million.<sup>52</sup><sup>[52]</sup>

### 3. Sales Losses

- Sales of Epoisses, a brand of raw milk French cheese, have plummeted 60 percent since it was linked to the deaths a newborn baby and a woman near Paris, France in April 1999. Health authorities closed down the factory that produces the cheese, Fromagerie d'Epoisses-Fromagers d'Armancon, which halted production and consequently hurt sales of other cheeses produced in the same factory.<sup>53</sup><sup>[53]</sup>
- In 1998, during Thorn Apple’s hot dog recall that resulted from *possible* Listeria contamination, Thorn Apple lost \$12.4 million, or \$2.02 per share, in one quarter. Sales fell by \$16.6 million compared to the previous year.<sup>54</sup><sup>[54]</sup>

### 4. Damage Control and Restoring Consumer Confidence

- The Director of Food Safety for a major food retailer and the Vice President for Regulatory Affairs of a large dairy foods industry association both note that public relations efforts aimed at damage control and restoring consumer confidence can be extremely costly in the wake of an
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outbreak of food-borne illness. At the very least these efforts will occupy the food safety director, a public relations director, and a lawyer and their staffs for the duration of the outbreak or recall. After the recall and outbreak are over, marketing and public relations offices expend further energy and resources trying to regain consumer confidence and boost sales.<sup>55</sup><sup>[55]</sup>

- After a recent outbreak of listeriosis in France, a pork processing facility spent \$1 million trying to restore consumer confidence. It doubled the number of independent laboratory tests of its products, invited television cameras to view its revised sanitation procedures, and ran extensive advertisements throughout France. After all of these expensive efforts, the plant stopped production and shut down due to near non-existent sales.<sup>56</sup><sup>[56]</sup>

## 5. Productivity loss due to listeriosis

- A 1996 study by USDA's Economic Research Service estimates the public medical costs and productivity losses due to listeriosis at \$200 to 300 million a year.<sup>57</sup><sup>[57]</sup>

## Costs to the U.S. Government

The SPS Agreement is clear that if a nation adopts standards that are higher than those set by the designated international bodies, the burden of proof will be on that nation to prove that higher standards are necessary to achieve the desired level of protection. In other words, if Codex adopts the *Code of Hygienic Practice for Milk and Milk Products* without including pasteurization or equivalent measures as a requirement for internationally traded cheese, the FDA will have to defend its higher sanitary standards that *do* require pasteurization or equivalent processing measures for cheese. Defending this position will cost the U.S. government a great deal of money:

1. Gathering scientific evidence and conducting a risk analysis to support the need for the United States to maintain standards higher than those adopted by Codex. Cost estimates begin at \$500,000 and go as high as \$2 million. Article 2.2 of the SPS Agreement requires that nations base sanitary and phytosanitary requirements on sound scientific evidence. Scientific evidence must be presented in the form of a risk analysis, which means that the U.S. government would have to:
    - Compile and synthesize industry-specific scientific information.
    - Conduct a risk analysis. (The USDA, FDA, and CDC are currently conducting a comprehensive risk analysis of *Listeria monocytogenes*, which a WTO panel would likely accept as evidence that the U.S. government is concerned with these bacteria.)
    - Contract internationally recognized scientists. Rates average \$200-300 per hour.
    - Compile blind industry data about the presence of *Listeria* bacteria in products.
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- Conduct tests and have them analyzed by private, independent laboratories. Average costs for these tests run \$25,000 per month for domestic cheese producers.<sup>58</sup><sup>[58]</sup>
2. Defending the United States' level of protection. The FDA would have to convince USTR officials that maintaining current levels of protection is necessary. Article 5 of the SPS Agreement says that once scientific evidence shows risk exists, each country can determine which level of protection is necessary to protect its population. In this case, the FDA would have to convince USTR and perhaps members of Congress to maintain current levels of protection.
  3. Preparing for and defending a case in the WTO. The FDA would first have to gather scientific evidence and then make a case to the USTR. Legal fees and fees for retaining scientific experts could add to these costs. Cost estimates for defending a case in the WTO begin at \$500,000 and are as high as several million.<sup>59</sup><sup>[59]</sup>

It is highly likely that the EU will file a case with the WTO if the Codex Milk Code is adopted in its current form (without pasteurization or equivalent measure requirements for cheese). For at least four years, the EU has already been threatening to bring a WTO Dispute Settlement case against the United States' restrictive import policies for cheese.<sup>60</sup><sup>[60]</sup> The Milk Code as currently drafted would give the EU extra impetus to file the case. It would also help the EU win the case.

Both the FDA and the U.S. cheese industry would have to convince the USTR that this case is worth defending. At a minimum, the U.S. cheese industry would have to get the FDA on its side and aggressively lobby the USTR. To make the case to the USTR, the cheese industry would need scientific evidence and risk analyses justifying the need for higher U.S. standards (costs estimated between \$500,000 and \$2 million). Additionally, the U.S. cheese industry might need to mount a national lobbying campaign in order to generate enough political pressure to justify the expense of defending a case in the WTO. The U.S. cheese industry has the political clout, but galvanizing support would be costly. (Estimates for a national lobbying campaign range from \$500,000 to several million.)

In addition to these cost predictions for defending higher U.S. standards, public expenditures for disease outbreaks are likely to grow if the FDA's high pasteurization standard is not kept in place. As noted above, the CDC estimates public expenditures per listeria outbreak average \$200,000. The federal government spends approximately \$300 million on microbial food-borne diseases annually.<sup>61</sup><sup>[61]</sup> This includes expenditures for containing outbreaks, public healthcare, monitoring and research.

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## Other Commercial Issues: Competition & Consumer Health

The U.S. cheese industry should go to great lengths to press the FDA to maintain higher standards both to minimize competition and to protect consumer health. Both factors have a direct impact on the profits of U.S. cheese producers, distributors, and retailers.

1. Competition & Profits. The U.S. cheese industry, worth approximately \$20 billion, has long been protected from foreign competition, particularly by quotas and tariff rate quotas (TRQs). However, traditional protection has declined dramatically as a result of the Agreement on Agriculture. UR commitments have required the United States to steadily increase import quotas, which has meant greater competition for U.S. producers. U.S. quotas for imported cheese rose from 111,000 metric tons in 1995 to 155,000 metric tons in 2000, almost a 45percent increase. At the same time, the tariff on imported cheese fell from \$1.443 to \$1.227 per kilogram.<sup>62</sup>

The U.S. cheese industry has not cultivated significant foreign demand and exports only between 30-35,000 metric tons of cheese annually. U.S. cheese exports have not risen commensurate with the increased imports. In effect, the market for U.S cheese is shrinking as more cheese at lower prices enters the American market, and this, in turn, is affecting U.S. cheese industry profits. In the long term, full integration of the world's dairy production will benefit U.S. producers by leveling the playing field. But in the immediate term, U.S. producers will want to guard as much protection as possible.

2. Consumers Health & Profits. Protecting consumer health has positive impacts on the U.S. cheese industry's profits. Whenever a cheese-related food-borne illness occurs, whether from foreign or imported cheese, the entire industry suffers. The National Cheese Institute estimates that sales for all cheese, domestic and foreign, drop by up to 60 percent when a large-scale cheese-related illness occurs. Additionally, an outbreak usually results in increased testing and inspections and a greater number of recalls, which further erode profits. Finally, restoring consumer confidence in cheese as a safe, wholesome and healthy product can be extremely costly.

## Political Issues

Food safety disputes between the United States and the European Union have become highly politicized and part of national public debates. Increased public attention, powerful dairy lobbies in both countries, and the new legal weight given Codex standards have made creating harmonized dairy standards increasingly difficult. While drafters of the *Code of Hygienic Practice for Milk and Milk Products* generally agree that pasteurization or equivalent processing measures provide greater health protection than traditional production methods, French delegates are faced with strong pressure from the dairy lobby and from the French public to maintain traditional production practices. The French can not be seen as acquiescing to U.S.-food safety standards.<sup>63</sup> At the same time, the United States can not afford to agree to international standards that are lower than U.S. standards.<sup>64</sup>

USCIA's recommendation, if adopted as an international standard, allows both countries to claim victory. The European Union will likely insist on some conditions for accepting the standard, such as an end to the U.S. ban on all raw milk cheese imports.<sup>65</sup> If the FDA agrees, this compromise would soften the blow

for French dairy producers and make the standard feasible for French politicians, while at the same time allowing the United States to claim victory in establishing a high, harmonized standard. Both nations can emphasize to the public that the European Union and the United States can work together on food safety issues in order to achieve increased consumer protection. This message might be well received in the midst of the beef hormone and GMO disputes.

## International Political Issues

European farmers are already losing protection from trade as a result of Europe's UR commitments. They are likely to lose yet more protection in the upcoming round of trade negotiations, which is a hard pill to swallow given that world dairy markets are becoming tighter. Australia, New Zealand, and even Brazil are becoming more important players on the world market and are providing competition for E.U. and other producers.

Nonetheless, European farmers, particularly French farmers, wield a large amount of power (despite the fact that they comprise a relatively small percentage of the population). This is in part because, for the European public, agriculture symbolizes traditional values. During the WTO's Seattle Ministerial, European negotiators talked about the need for recognizing that agriculture is "multifunctional." The European Union's position is that agriculture is more than just a means to provide food, it is a way to preserve traditional pastoral culture and provide green spaces across the Union.

From the American perspective, multifunctionality seems like a thinly disguised effort to protect Europe's doomed Common Agriculture Policy (CAP). European Codex negotiators recognize this, trade negotiators probably do too, but the European public sees the multifunctionality argument as an important way to fight U.S. cultural hegemony. The French public is particularly fearful of the "McDonaldization" of France. When the United States first proposed pasteurization or equivalent measures as part of the CCMP standards in 1998, the French press reported on an "American conspiracy" aimed at ending one facet of their traditional culture. When two people died in France last year as a result of a Listeria outbreak related to cheese, some French theorized that the "Listeria Hysteria," as it was reported in France, was started by the United States as a means of advancing its pro-pasteurization objective. European dairy farmers are exploiting these views to maintain their operating conditions for as long as possible.

However, France's current "listeria epidemic"<sup>66[66]</sup> has opened an opportunity for swaying French public opinion. The epidemic was first covered-up, and then downplayed by the French government. The epidemic began in November 1999 but was not announced until February 21, 2000, after seven people had died from it. Four days later, the Secretary of State for Health and the Secretary of State for Consumers both announced that the epidemic was over. They made these announcements before any scientific evidence was released from the highly respected Institut Pasteur, or before the source of the epidemic had been identified! These actions have outraged 30 Million Consomateurs (30 Million Consumers), France's largest consumer advocacy lobby. 30 Million Consomateurs is blaming government officials for bowing to the powerful agriculture lobbies to downplay the epidemic. They are now demanding government action to protect public health.

This "scandal," as it has been called by the French press, might be enough to allow French Codex delegates to consider a harmonized standard that requires pasteurization or equivalent measures. Delegates would still face pressure from the dairy lobby, but increased public awareness of listeria and consumer outrage might be enough to make French politicians consider this option.

If French politicians could agree to such standards, Italy, Switzerland, and Denmark would likely follow suit. Italy's primary cheese exports are hard, aged cheeses (such as Parmesan) that are often made from pasteurized milk, and cooked cheeses (such as mozzarella) that would not be affected by a pasteurization or equivalent measure standard. Switzerland also exports primarily hard cheese that can be made from pasteurized milk. Denmark's largest cheese conglomerate was recently bought by Arla, Sweden's largest

dairy producer and will likely follow Swedish production practices which mandate pasteurized milk in all cheese.

### **Domestic Political Issues**

The U.S. position supporting pasteurization or an equivalent process is not completely consensual. The American Cheese Society (ACS), a smaller industry association representing specialty and farmhouse cheese makers, has criticized USCIA for advocating pasteurization or an equivalent process to the FDA. ACS supports “the rights of individual countries to monitor the hygiene practices of their respective dairy industries.”<sup>67</sup><sup>[67]</sup> Fortunately, however, USCIA’s proposed standard would not affect ACS members. U.S. law already forbids ACS members from selling raw milk dairy products that have not undergone pasteurization-equivalent processing such as aging, except locally. Interstate commerce laws also forbid the sale of these products across state lines. Thus ACS members would be unaffected by an international standard requiring pasteurization or an equivalent process adopted by Codex.

Other than ACS’s dissent, there is general agreement in the United States concerning the need for a pasteurization requirement. The FDA’s position is that raw milk dairy products can not be guaranteed safe for human consumption without undergoing pasteurization or equivalent processing. NGOs and consumer groups, especially the Center for Science in the Public Interest (CSPI)<sup>68</sup><sup>[68]</sup> and Consumers International (CI), have been outspoken in support of this position. The National Food Processors Association and other large food retailers including Safeway also support the policy.<sup>69</sup><sup>[69]</sup>

### **Institutional Issues**

One of the major institutional difficulties in this case is that E.U. member states participate individually in Codex and not as a part of the European Commission (EC) delegation. The EC participates as an observer and tries to forge a “European consensus,” but the Commission can neither vote nor officially block consensus. This complicates the issue. While individual E.U. member states can act independently, E.U. food safety policy is made at the federal level and applies to E.U. member states equally.

In the case of dairy hygiene standards, France leads the fight against requiring pasteurization or equivalent measures and is supported by two E.U. members (Italy and Denmark) and one non-member (Switzerland). However, Sweden (an E.U. member) and Norway (a non-member) are producing cutting-edge research that proves the health benefits of pasteurization. According to an FDA official, Sweden does not like the current laws that require them to sell unpasteurized cheese on their shelves.<sup>70</sup><sup>[70]</sup> Yet Sweden’s laws are preempted by E.U. law. Swedish law requires that all cheese produced in Sweden be made from pasteurized milk, but it can not ban the import of raw milk cheese from the E.U.

This situation has complicated harmonization efforts within the European Union and will have to be addressed with the creation of the European Food Safety Agency. In the mean

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time, U.S. Codex delegates might be able to take advantage of Europe's bifurcated position to garner support for USCIA's proposed standard.

### Policy Issues

The U.S. and E.U. regulatory systems both recognize the public health risks associated with dairy products and include policies designed to protect consumers. None of these policies would automatically change as a result of the adoption of Codex standards. However, WTO member countries must amend or create national policies to ensure conformity with Codex standards. Countries that maintain standards higher than those adopted by Codex must, when challenged, provide scientific justification for doing so.

The Agreement on Agriculture requires both the European Union and the United States to further eliminate barriers to agricultural trade. Both the FDA and the USDA expect that as these barriers fall, trade in ready-to-eat products will increase between the United States and the European Union. This is especially true of cheese. As a result of the mad cow scare and the beef hormone issue, Europeans are eating more cheese as a replacement for beef. Americans are eating more imported cheese because the Agreement on Agriculture requires the United States to eliminate its current quota system for cheese. As demand increases on both sides of the Atlantic and barriers come down, it will be important for the European Union and the United States to cooperate to find solutions to the mutual problem of food safety. Policy options that are currently being explored include the following:

- **Do nothing to harmonize international standards.** The European Union and the United States could maintain the status quo and set standards independently. However, the beef hormone and GMO disputes have shown that this path is often difficult and expensive. To get around these problems, the SPS Agreement and the Trans-Atlantic Business Dialogue (TABD) encourage the United States and the European Union to minimize differences in standards.
- **Unilaterally enforce food safety laws at current or higher levels.** If Codex sets standards lower than the United States' standards, the United States could maintain its higher levels and present scientific justification for doing so. This might result in the European Union or other nations filing a dispute in the WTO, but the United States could opt to take that risk.
- **Negotiate bilateral equivalency agreements such as the Veterinary Agreement.** The U.S.-E.U. Veterinary Agreement, signed in June 1999, covers \$1.5 billion in trade including some dairy products. It requires the United States and the European Union to slowly eliminate differences in process and production methods.<sup>71[71]</sup> Eventually, the two countries will face the same difficulties they currently face in the CCFH regarding dairy products.
- **Pressure Codex, the WTO, and the TABD to expand use of the precautionary principle.** While this may be an attractive option for European politicians and the French public, both U.S. and E.U. industry groups fear that application of the precautionary principle would undermine the SPS Agreement. According to informed sources at [Inside U.S. Trade](#), this would "open the door for letting countries ignore valid scientific evidence in favor of political justifications to block trade."<sup>72[72]</sup>
- **Require irradiation of all RTE dairy products sold in the United States.** A huge coalition of U.S. producers, as well as one university and one consumer group, is currently pushing the FDA to allow irradiation of RTE meat and vegetable products.<sup>73[73]</sup> The coalition's agenda could be

expanded to include dairy products because irradiation provides 100 percent certainty of safety in dairy product. However, fears about exposure to radiation make this option controversial with many consumer groups on both sides of the Atlantic.

- **Establish a “made with raw milk” labeling requirement that would warn consumers about the potential hazards of raw milk products.** The European Union requires such labels on all raw milk products sold in the Union. The United States could adopt this requirement. However this option is unacceptable to USCIA and its members because it undermines consumer confidence in dairy products. Neither USCIA members nor its staff currently support this proposal, which is similar to the E.U.’s current attempts to have U.S. producers label products that contain more than one percent GMO.<sup>74</sup><sup>[74]</sup>
- **Establish testing and certification programs.** Testing and certification arrangements could be established for exports and imports. However, the FDA is currently only able to inspect and test 1.6 percent of imports due to resource constraints.
- **Create harmonized international standards.** While harmonizing dairy standards has proven to be a difficult task, it seems to offer the best way to ensure food and consumer safety without threatening current levels of international trade. Harmonized standards will presumably lead to increased trade. They afford greater certainty that all countries’ products will be safe for all populations; they could reduce or eliminate quarantine times, and onerous and expensive testing and certification requirements; and they might eliminate outright bans.

In RTE dairy products, the surest way protect consumers, protect commercial profits, and increase trade is to harmonize international dairy standards at *high levels*. High harmonized standards:

- allow nations to open their borders to imported products with greater assurance of product safety;
- allow the FDA and other national testing and inspection agencies to use their limited resources more efficiently;
- allow producers to cut costs and expand exports by eliminating their need to meet multiple standards for different export markets;
- keep nations from erecting higher SPS barriers to protect their populations; and
- benefit U.S. producers who already produce at these levels and would gain a temporary competitive advantage while other nations ramp up production processes to meet the standards.

The push to harmonize international dairy standards at low levels reflects an attempt to cling to the status quo in an industry that is facing major changes in the near future. Under the Agreement on Agriculture WTO members are already raising quotas and thereby increasing trade in RTE cheese, and the Millennium Round of multilateral negotiations will likely further erode the European Union’s extensive dairy subsidies. Competition will become yet keener as Australia and New Zealand are expected to become major players in the cheese export market.

The international dairy market is changing. Any standards adopted by the CCFH must encourage these changes and at the same time offer the highest level of consumer protection. It is imperative that the CCFH adopt standards at high levels.

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## Recommendation

USCIA recommends that the U.S. cheese industry become involved in the international standards setting process. Further, USCIA's International Affairs Department recommends that USCIA should work to ensure that the *Code of Hygienic Practice for Milk and Milk Products* includes a general principle recognizing the public health risks associated with raw milk products. The Code should include the following standard:

All RTE cheese sold internationally shall be aged for no less than 60 days at a temperature of no less than 39 degrees Fahrenheit, or the milk used in cheese production shall be subject to one of the following measures: irradiation, pasteurization, sterilization, heat-treatment, or other technologies not yet developed but that achieve results comparable to these processes.

Annexes can be used to provide specific detail, scenarios, and any exceptions.

USCIA's recommendation fits the structure of the Draft Milk Code. At the CCFH drafting group meeting in March 1999, the eleven-member group agreed that the framework of the main text of the Milk Code should include general principles. It would next have standards, recommendations, and guidelines. These would in turn be explained in annexes.<sup>75</sup><sup>[75]</sup> This structure was confirmed by the full CCFH at its meeting in December 1999, and now the drafting committee is writing technical standards for the Milk Code.

USCIA's proposal is also pragmatic. The CCFH has already agreed that a general principle regarding provisions for raw milk products will be included in the final Code. CCFH members generally agree with the premise that RTE cheese poses unique food safety risks.<sup>76</sup><sup>[76]</sup> What they have not been able to do is reconcile differing commercial, cultural, and political concerns necessary to create provisions that protect consumers from the acknowledged risks. USCIA's proposal allows the Committee to create a general principle that recognizes the unique food safety risks associated with RTE cheese while at the same time allowing for compromises (in the annexes) that will be necessary to achieve consensus. USCIA prefers that no exceptions be included in annexes. However, considering the Code's 15-year negotiating history, it is likely that limited exceptions will be necessary if an agreement is to be reached. Even with some exceptions, high, harmonized dairy hygiene standards will offer greater consumer protection and opportunity for expanded trade than would lower standards or no standards.

## Benefits of the Recommendation

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## Overall Benefits

- The recommendation fits the structure of the *Code of Hygienic Practice for Milk and Milk Products* and can easily be incorporated into the existing framework.
- The recommendation correctly identifies the problem—the public health risks associated with unaged, raw-milk RTE cheese—and proposes multiple solutions.
- The recommendation creates a win/win situation for the major parties involved: The United States gets international standards set at high levels and the European Union gains access to the U.S. market for a wider variety of cheeses.<sup>77[77]</sup>
- The recommendation reaffirms Codex’s ability to create international, science-based standards.

## Benefits to U.S. Cheese Industry

- The proposed standard reflects current U.S. law.
- Adoption of this standard would not automatically dismantle the United States’ current tariff rate quota (TRQ) system.
- Distributors and importers will benefit from less paperwork, fewer FDA “import alerts” that currently delay many cheese imports, and from shorter or eliminated quarantine times. They will also benefit from new business opportunities if the United States lifts its import ban on raw-milk cheese.
- The entire industry will benefit from increases in the safety and variety of cheese sold in the United States, which in turn, will boost consumer confidence and sales.
- The recommendation reaffirms the U.S. position that when credible scientific evidence exists, international standards should be set at levels that minimize risk to consumers.
- U.S. producers will benefit because imported cheese usually sells for a premium price. This is likely to either 1) promote low or moderately priced cheese for everyday consumption, or 2) raise prices for domestically produced cheese. Because U.S. producers already adhere to high standards, they would also gain a short-term competitive advantage as other nations work to adopt the high Codex standard.

## Benefits to European Cheese Industry

- The structure of the proposed recommendation allows room for exceptions such as for small dairy producers, products from intra-community trade, etc.
  - Codex standards are not automatically imposed on nations. Codex member countries can choose to apply standards at lower levels than those set by Codex. Only when they apply standards at higher levels do they have to provide scientific evidence.
  - The recommendation would not cause a flood of imported cheese to enter the European market.
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- The recommendation provides access to U.S. markets for more varieties of European cheese.
- The recommendation expands opportunities for European exporters and distributors.
- Uniform standards ease the burden of complying with multiple standards, which can be cost prohibitive for small, traditional European producers.
- The recommendation removes one contentious issue involved in creating the European Food Safety Agency.
- The recommendation affects only a small number of European producers who export unaged, raw-milk cheese.

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## Strategy

USCIA has developed a tripartite strategy for ensuring that any *Code of Hygienic Practice for Milk and Milk Products* adopted by the Codex Alimentarius Commission includes a pasteurization or equivalent measure requirement.

- The **domestic strategy** focuses on securing U.S. support for the requirement.
- The **French strategy** is designed to take advantage of current public concern about listeria in order to push the French to accept a pasteurization or equivalent measure requirement.
- The **international strategy** is designed to garner support among other Codex delegates who serve on the CCFH or have substantial interests in dairy standards.

The French strategy is perhaps most crucial. France has led opposition to a pasteurization requirement since 1985. If the French public can be swayed that this is a matter of public health and not a threat to traditional culture, opposition in Italy and Switzerland will diminish.

### **Domestic Strategy: Secure U.S. Support for a High Codex Standard**

#### **Gain USCIA Member Approval**

- Present the standard to relevant USCIA committees and request their approval.
- Present the standard to USCIA's Board of Directors and request their approval.
- Send a letter to all member companies. Explain USCIA's position, lay out the consequences of adopting a standard without USCIA's proposed provision, and ask members to sign and return a letter to us by fax. Follow up by phone or email with those who do not respond.

#### **Lobby the Food and Drug Administration (FDA)**

- Talk with FDA official, U.S. Codex delegate, and point person on the Milk Code. He will be key in implementing the French and international strategies.
- Request that this official set up a meeting for USCIA to present to its proposed language to the FDA director and to all FDA officials who sit on the U.S. Codex delegation.
- Request that FDA Codex delegates set up an interagency meeting with all Codex delegates from the USDA and EPA. (See Documents section for sample talking points.)

#### **Lobby the U.S. Codex Delegation**

At a meeting of all U.S. Codex delegates, emphasize that now is the time to act. We must take advantage of the current listeria epidemic/scandal in France. To make its case, USCIA should:

- Lay out industry costs associated with recalls and liability; emphasize public healthcare expenditures related to listeriosis; show where government costs could be reduced by a pasteurization requirement.
- Present USCIA's research on the negotiation situation and offer to help the U.S. Codex delegation with further research and preparation for meetings.

(See Appendix 3 for costs of food-born illness to the U.S. cheese industry and to the U.S. government. See Documents section for sample talking points).

### **Minimize Opposition in the United States**

The American Cheese Society and the *Milkweed* have been critical of USCIA's pro-pasteurization position. While USCIA can proceed successfully without these parties' support, it is preferable that they not oppose USCIA's proposal.

- Request a meeting with the president of the American Cheese Society. Explain USCIA's proposal and reasons for its inclusion in Codex standards. Specifically, explain that this proposal would not alter the regulations under which its members (farmhouse and specialty cheesemakers) operate.
- Request a meeting with Joel McNair, author and publisher of the *Milkweed*, a dairy publication. (See Documents section for sample talking points).

### **Domestic Public Relations Strategy**

USCIA proposes that there be no major U.S. public relations strategy for three reasons. First, recent events in another Codex Committee have fostered a negative view of the Codex process within the United States. This has made it more difficult for Codex delegates to do their jobs. It will be easier for the U.S. Codex delegates to negotiate a pasteurization requirement if negotiations can be closed to the general public. Second, a broad media campaign in the United States would likely undermine French consensus-building. Third, there is no real need to build public support for the standard because U.S. Codex delegates already have the authority and support from the administration and NGOs to introduce the pasteurization proposal.

### ***Specific Actions***

- Monitor domestic and international media.
- Formulate media responses to hypothetical situations (e.g. a strike by French cheese makers in Paris, accusations that the United States is leading the pasteurization campaign in Europe).
- Meet with Dr. Dobson, Director, Dairy Research Center, University of Wisconsin, Madison. He is considered to be *the* international dairy expert in the United States. He can identify colleagues worldwide who would support this standard. He can also provide scientific data and European contacts who support a pasteurization standard.
- Identify potential supporters in Congress who can be called on if the French strategy fails and we decide to generate a public response in the United States.

- Keep members apprised of developments through USCIA’s newsletter and information posted on the website.

### **French Strategy—Political Momentum and Public Education**

The United States will need to be publicly absent for this strategy to work. French Codex delegates and other government officials will not want to be seen as bowing to U.S. pressure. However, the United States can provide information and support to French Codex delegates who privately agree that pasteurization or alternative measures are scientifically appropriate. Indeed, even the French Minister of Agriculture, Jean Glavany may be willing to consider the hazards of raw milk cheese. He has criticized other government officials for ignoring the scientific facts about the risks posed by “traditional methods of production.”<sup>78</sup> He is the only politician in France who has said publicly that all those affected by the current listeria epidemic in France consumed raw milk products as well as jellied pork tongue. All other French politicians have disregarded dairy products as a listeria source and instead focused all their attention on pork—probably because of the unequal power of the respective lobbies. The pork producers’ lobby in France has been badly hurt in recent years by other food-borne illness problems while the dairy lobby has intensified its actions in the face of CAP reforms.

### **Contact French Codex Delegates**

- The appropriate FDA officials should call their colleagues in the French Codex delegation to explain that the listeriosis outbreak has opened an opportunity for the CCFH to make significant progress on the Milk Code’s provisions for raw milk products. To move the issue forward, French delegates, through the Ministry of Agriculture, could:
  - Request that the Institut Pasteur<sup>79</sup> commence studies of the recent listeriosis epidemic and issue preliminary findings and conclusions.
  - Ask the Institut Pasteur to issue consumer information on how to avoid listeriosis.
  - Ask the Veterinary Inspectors in the 96 departments (governmental regions) to increase inspections of products known to support the growth listeria bacteria. (This will make local news in all regions in France).
  - Ask the following industry associations (the members of which all sell cheese in France) to encourage their members to increase voluntary inspections and tests for listeria bacteria: EUROLAIT – the European Union of Importers, Exporters, and Dealers in Dairy Products (Brussels), the European Association of Mozzarella Manufacturers (Brussels), the Association of the Processed Cheese Industry in the European Union (Bonn), *Association de la Transformation Laitiere Francaise* (The French Milk Processors Association) (Paris), and the European Dairy Association (Brussels).<sup>80</sup>

### **Involve French Stakeholders**

- Encourage the French government to arrange/fund four, regional conferences with the goal of discussing dairy safety issues. Invite regional cheese producers and dairy farmers; researchers from the Institut Pasteur; government officials; industry association members; and Jean-Paul Bessett, José Bové and Jean-Yves Nau, reporters who cover agriculture, food and trade.
- A USCIA representative should address the Association de la Transformation Laitiere Francaise (French Milk Processors Association) and discuss international efforts to increase dairy safety. (See Documents section for a sample press release).

## **French Public Relations Strategy**

### ***Scope of Outreach***

France

### ***Targets of Coverage***

- **Government Officials**  
French Codex Delegates; Jean Glavany, the French Minister of Agriculture; Dominique Gillot, Secretary of State for Health; Marylise Lebranchu, Secretary of State for Consumers; public health officials; veterinary and health inspectors.
- **Industry**  
Dairy farmers; cheese producers, distributors, and sellers, Associations; EUROLAIT – the European Union of Importers, Exporters, and Dealers in Dairy Products, the European Association of Mozzarella Manufacturers Association of the Processed Cheese Industry in the European Union, *Association de la Transformation Laitiere Francaise* (The French Milk Processors Association).
- **Individuals**  
**Consumers; women; pregnant women; mothers; elderly; and those with compromised immune systems.**

### ***Media Outlets***

#### **Journalists**

- Jean-Paul Bessett and Jean-Yves Nau, French reporters who cover agriculture, food, and trade.

- José Bové, former lawyer turned farmer who writes columns about French and international agricultural issues.

## **Media**

- *Elle* (women's monthly magazine read by one in four women in France)
- *L'Express* (business weekly)
- *Le Monde* (a daily newspaper that will cover studies published by the Institut Pasteur)
- *Liberté* (a daily newspaper that will cover studies published by the Institut Pasteur)
- Television stations: TFA, France 3, France 2, Canal +, Antenne 2.
- Radio stations
- 30 Million Consommateurs—newsletter, website, airtime on French news.

## ***Specific Actions***

- French Codex delegates should send reports and studies generated by the Institut Pasteur to all media outlets, as well as to 30 Million Consommateurs.
- French Codex delegates should cultivate relationships with reporters Jean-Paul Bessett, Jean-Yves Nau, and José Bové to apprise them of progress on the Milk Code and inform them of the risks associated with listeria.
- Send Listeria backgrounder to all media outlets. (See Documents section for sample Listeria backgrounder.)

## **International Strategy**

The international strategy focuses on gaining support for USCIA's pasteurization proposal from other international stakeholders, mainly government officials who have decision-making authority.

### **Lobby Codex Delegates from Italy, Denmark, Switzerland**

U.S. Codex Delegate should call his colleagues in these Codex delegations. He should explain that, because of the French listeriosis outbreak, the CCFH now has a chance to make significant progress on the Milk Code's provisions for raw milk products. He should explain the current situation in France and how the drafting committee might now be able to harness public support for a standard that recognizes the health risks associated with cheese. He should encourage the Codex delegates to do the following:

- Meet with the Ministry of Agriculture in each of these nations to discuss the benefits of a Codex standard that requires pasteurization or equivalent processing for cheeses sold internationally. (Italy, Denmark, and Switzerland specialize in hard cheeses that do not support the growth of listeria bacteria. Such a standard would open up the U.S. market and others if adopted. USCIA will prepare individual country analyses that show how such a standard will increase exports of their cheese to the United States and to other nations once this standard is in place.) (See Documents section for sample talking points.)

- Contact the government public health offices and private research institutes in each of these countries to request information on listeria outbreaks related to cheese.
- In light of the outbreak in France, ask public health officials to issue consumer information on how to avoid listeriosis and to require veterinary inspectors to increase inspections of products known to support the growth *Listeria* bacteria.
- Ask the following industry associations to encourage their members to increase voluntary inspections and tests for listeria bacteria: EUROLAIT – the European Union of Importers, Exporters, and Dealers in Dairy Products (Brussels), the European Association of Mozzarella Manufacturers (Brussels) Association of the Processed Cheese Industry in the European Union (Bonn), *Association de la Transformation Laitiere Francaise* (The French Milk Processors Association) (Paris) and the European Dairy Association (Brussels).

### **Lobby Other Codex delegations**

- Confirm support of other Codex delegates who are likely to support USCIA’s proposal including: Australia, New Zealand, Sweden, Norway, Canada, United Kingdom, Japan, Thailand, and Uruguay. (See Documents section for a sample letter to be sent by an appropriate U.S. Codex delegate.)

### **Approach E.C. Codex Delegates**

- The U.S. Codex delegation can approach the European Commission’s Codex delegates (who have observer status only) and explain that the United States’ pasteurization proposal might eliminate one major stumbling block toward creating the European Food Safety Agency. (See Documents section for sample talking points).

### **Lobby the International Dairy Federation (IDF)**

- Present the case for USCIA’s position to IDF and ask for its support. IDF serves as technical advisor to the CCFH.

## **International Public Relations Strategy**

An international public relations strategy is included in Appendix 4, but it may be best to first approach the targeted government officials and then determine if a large-scale public relations campaign is necessary. After negotiating privately with public officials in Italy, Denmark, and Switzerland we will have a better idea of what is needed to “sell” USCIA’s proposed strategy to the industry and the public. Perhaps if the outcome of the negotiation meets the interests of the cheese industries in each nation, a public relations strategy will be unnecessary.

## **Negotiation Strategy**

### **Negotiations within CCFH**

Preferred Outcome: USCIA's preferred outcome is for the CCFH to reach unanimous agreement on including a general principle in the *Code of Hygienic Practice for Milk and Milk Products* that recognizes the unique food safety issues associated with RTE cheese. The standard should require that:

*All RTE cheese sold internationally be aged for no less than 60 days at a temperature no less than 39 degrees Fahrenheit; or that the milk used in cheese production be subject to one of the following measures: irradiation, pasteurization, sterilization, heat-treatment, or other technologies not yet developed but that achieve results comparable to these processes.*

Best Alternative to a Negotiated Agreement (BATNA): If the CCFH can not agree to include a standard that places controls on internationally traded RTE cheese, the U.S. delegation should block consensus on the Milk Code. If that is unsuccessful, the delegation could submit formal country comments opposing a code that does not include some provisions regarding cheese. The U.S. delegation should also encourage like-minded countries to do the same. If that fails, dissenting delegations should request a private meeting with the Codex chair. (USDA Administrator, Thomas J. Billy will be the presiding chair in 2001 during the 24<sup>th</sup> Session of the CAC.) The chair has the authority to send proposals back to committee without taking a vote at the CAC session.

Logistics: Because the United States holds the CAC chair, it has the authority to set the agenda. The U.S. Codex delegation, with support from other delegations, should include USCIA's proposed standard on the agenda for the 33<sup>rd</sup> CCFH session to be held in October 2000.

### Negotiating Tactics

- The FDA should consider dropping its current ban on the import of all raw milk cheese in exchange for support for a pasteurization standard. This would have two positive benefits: 1) it would make French politicians better able to sell a pasteurization or equivalent measure requirement to the French public; and 2) it would bring U.S. policy into compliance with its WTO national treatment commitments. Dropping the ban would preempt a WTO case and would significantly advance work on the Milk Code.
- The FDA should also consider allocating more import licenses to France, Switzerland, Italy, and Denmark in exchange for support. U.S. cheese import quotas are increasing on a schedule negotiated in the Agreement of Agriculture. Last year the import quota rose from 142,00 to 155,000 metric tons. Of that, 10,000 licenses were issued to France. A similar offer for the next round of increases might lead to increased support from these countries.

Because many Codex delegates have worked together for years and have developed a working rapport, USCIA suggests that the U.S. Codex delegation follow these basic guidelines. It should:

- Acknowledge that while French or other delegates may agree with scientific evidence that supports a pasteurization requirement, delegations represent national interests at the negotiating table.
- Work cooperatively to find solutions that meet national interests.
- Seek creative solutions, inclusions, and omissions, which will enable politicians to sell this standard.
- Emphasize the benefits to all members of establishing standards for RTE cheese, including:
  - Greater consumer protection,
  - Decreased public health costs,
  - Increased efficiency at ports of entry,
  - Decreased congestion at customs,
  - Increased opportunities for international trade in cheese,
  - Greater access to foreign markets, and
  - Decreased business costs associated with product recalls.
- Emphasize that the E.U. would not have to adopt the proposed standard internally. Europeans could continue to sell traditionally produced cheese within the Union.
- Underscore that the proposed standard would not interfere with production of domestically sold cheese. Offer to make this explicit in the annex.
- Remind delegates that the proposed standard provides several alternatives for ensuring the safety of cheese, ranging from aging of cheese to pasteurization, heat treatment, sterilization, irradiation and other treatments of milk.
- Point out that the proposed standard does not preclude technological advancements that would increase dairy safety.
- As a last resort, allow exceptions and detail these exceptions in the standard's annex.
- Emphasize that there are likely to be some heated debates in Codex regarding food safety (beef hormones, hormones in milk, eco-labeling) and that agreeing on this smaller issue might make future work easier.



## Strategy Implementation

### Timeframe

USCIA's preferred outcome is to see the CCFH reach unanimous agreement on our proposed standard at its next meeting in October 2000. If agreement on a complete Code can be reached at this meeting, it could be forwarded to the full Codex Alimentarius Commission for adoption at the next meeting in July 2001. If agreement is not reached in October, USCIA should work toward the goal of having the full CAC consider a completed code at its July 2003 meeting.

### Budget

The budget includes expenses related solely to implementing this strategy. (For example, it does not include the salaries of those already employed at USCIA who will be working on this project.)

Item	Cost per year / per event	# of years / events	Total cost per item
1-full time entry-level staff person hired specifically for this project	\$45,000	3	\$142,500 (includes \$2,500 annual raise)
Regional conferences in France	\$100,000	4 first year only	\$400,000
Travel	\$100,000	3	\$300,000
Office supplies	\$10,000	3	\$30,000
Mailings, phone calls, faxes	\$20,000	3	\$60,000

Total Cost per Year - \$575,000.

Total Cost for Three Years - \$932,500.

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## Timeline

April	Present strategy to USCIA's International Affairs Advisory Committee and Scientific and Regulatory Affairs Committee, as well as USCIA's board of directors.  Implement Domestic Strategy.
May	Implement French Strategy.  Implement International Strategy.
July 15-17	First regional dairy safety conference in Roquefort, France.
July 20-22	Second regional dairy safety conference in Camembert, France.
September 3-5	Third regional dairy safety conference in Rouen, France.
September 7-9	Fourth regional dairy safety conference in Lyon, France.
<i>October 2000</i>	<i>33<sup>rd</sup> Session of the Codex Committee on Food Hygiene in Washington, D.C.</i>  Include proposed standard in the draft document to be discussed during the meeting.
<i>July 2001</i>	<i>24<sup>th</sup> Annual Session of the Codex Alimentarius Commission, Rome, Italy</i>  Code of Hygienic Practice for Milk and Milk Products adopted.
<i>October 2001</i>	<i>34<sup>th</sup> Session of the Codex Committee on Food Hygiene, location, TBA*</i>  Include proposed standard in the draft document to be discussed during the meeting.
<i>July 2003</i>	<i>25<sup>th</sup> Annual Session of the Codes Alimentarius Commission, Rome, Italy*</i>  Code of Hygienic Practice for Milk and Milk Products adopted.

*(Dates in italics are predetermined)*

*\* If July 2001 timeframe can not be met.*

### ***Evaluation***

*Staff assigned to this project will monitor progress and track expenses and supply quarterly written reports to USCIA's board and members. General updates regarding CCFH dairy hygiene standards will be posted on our website.*

### ***Strategy Implementation Documents***

*Strategy implementation documents are included in the following order:*

- *Sample Letter to USCIA Members*
- *Sample Letter to Codex Delegates*
- *Sample Talking Points*
- *Sample Listeria Backgrounder*
- *Sample Press Release*

### **Sample Letter to USCIA Members/Board Members**

April 15, 2000

Dear USCIA Member/Board Member:

As you know, the Codex Committee on Food Hygiene is developing the *Code of Hygienic Practice for Milk and Milk Products*. At present, the draft standard does not include any language that would require pasteurization or equivalent processing measures for cheese. I am writing to ask for your support of a USCIA developed to protect the interests of the domestic cheese industry in the Codex negotiation process.

If adopted as currently drafted, the Milk Code could result in international pressure on the U.S. government to remove or relax health and safety standards. Such action would put American consumers at risk and negatively impact our businesses. We want to launch a strategy to ensure that the Codex Milk Code includes a pasteurization or equivalent measures requirement, but we need your support.

Pasteurization is scientifically proven to protect public health against pathogens found in cheese. Accordingly, it is imperative that the final standards adopted by the Codex Alimentarius Commission include language that 1) recognizes the unique food safety risks associated with cheese and 2) protects consumers from these risks. If the standard adopted by Codex leaves out this language, the European Union will very likely initiate World Trade Organization (WTO) dispute settlement proceedings against the United States. The Europeans will argue that U.S. standards are higher than those set internationally and must be justified. A WTO case would likely cost the U.S. cheese industry between \$500,000 and up to several million.

USCIA's position is that the *Code of Hygienic Practice for Milk and Milk Products* adopted by the Codex Alimentarius Commission should include a general principle that recognizes the unique food safety risks associated with RTE cheese. The standard should require that:

*All RTE cheese sold internationally be aged for no less than 60 days at a temperature no less than 39 degrees Fahrenheit; or that the milk used in cheese production be subject to one of the following measures: irradiation, pasteurization, sterilization, heat-treatment, or other technologies not yet developed but that achieve results comparable to these processes.*

USCIA has been involved in and monitored the progress of the Codex Committee on Food Hygiene since 1985 when it first began to create international dairy standards. Now that a draft code is taking shape, we are increasingly concerned that it does not include any language designed to protect public health.

Now is the time for USCIA to act. The U.S. Codex delegation is currently drafting the technical details for the Code. USCIA has developed a strategy to ensure that these drafters consider the interests of the U.S. cheese industry. But before we can proceed, we need to know that we have your support in this important endeavor. Please contact me with your support by the close of business Friday, April 30, 2000.

Thank you for your prompt attention to this important matter. I will look forward to hearing from you. If you have any questions, please do not hesitate to contact me.

Sincerely,  
Executive Director, USCIA

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### **Sample Letter to Foreign Codex Delegates from U.S. Codex Delegate**

The following letter should be sent to Codex delegations that have supported a pasteurization or equivalent processing requirement in the past. These include Canada, Japan, Thailand, India, New Zealand, Australia, Brazil, and Mexico.

April 15, 2000

Dear Codex Delegate:

The U.S. Codex delegation is currently drafting the *Code of Hygienic Practice for Milk and Milk Products*. I am writing to ask for your support for inclusion of pasteurization provisions for raw milk products.

As you know, pasteurization has been a difficult issue for more than fifteen years. As dairy scientists, we on the committee agree that pasteurization offers the greatest public health protection. However political constraints on French, Swiss, Italian, and Danish delegates have prevented the committee from considering pasteurization as a viable Codex requirement.

However the listeriosis epidemic in France has increased public health concerns over raw milk cheese and has opened an opportunity to gain consensus on this issue. Seven people have died in France and more than 23 have become ill. All of those affected had eaten raw milk products, as well as traditionally produced pork products. The French public believes that the government covered up the epidemic due to pressure from France's powerful agricultural lobby. This has sparked outrage among French consumer groups who feel that their safety has been jeopardized for political reasons. This "scandal," as it is called in France, has also increased awareness among consumers about listeria and listeriosis.

The U.S. Codex delegation believes it may now be possible to gain French acceptance of a hygiene standard for internationally trade cheese. We have drafted a standard that recognizes the unique food safety hazards associated with ready-to-eat (RTE) cheese. The standard requires that:

*All RTE cheese sold internationally be aged for no less than 60 days at a temperature no less than 39 degrees Fahrenheit; or that the milk used in cheese production be subject to one of the following measures:*

*irradiation, pasteurization, sterilization, heat-treatment, or other technologies not yet developed but that achieve results comparable to these processes.*

We are working with the French Codex delegates to cultivate government support for such a standard. We are also helping them to educate the French public about the risks of raw milk products and listeria. But we need your help. We need strong support from within the CCFH so that we can help France, Italy, Denmark, and Switzerland build support for this standard within their own countries.

It is unfortunate that it has taken a tragedy in France to allow us to consider including a pasteurization or equivalent processing requirement in an international dairy hygiene standard. At least now we may have the political momentum necessary to move forward. Please contact me with your support by Friday, May 30, 2000.

Should you have any questions, please do not hesitate to contact me. Thank you again for your support. I will look forward to hearing from you soon.

Best Regards,  
Appropriate U.S. Codex Delegate

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## Sample Talking Points

These talking points articulate the benefits of USCIA's proposed Codex standard. They can be adapted to be used as "leave behind pieces" for meetings.

### Overall Benefits

- The proposed standard fits the structure of the *Code of Hygienic Practice for Milk and Milk Products* and can easily be incorporated into the existing framework.
- The proposed standard correctly identifies the problem—the public health risks associated with unaged, raw-milk RTE cheese—and proposes multiple solutions.
- It creates a win/win situation for the major parties involved. The United States gets international standards set at high levels, and the E.U. gains access to the U.S. market for a wider variety of cheese.<sup>81</sup><sup>[81]</sup>
- It reaffirms Codex's ability to create international, science-based standards.

### Benefits for the U.S.

- The proposed standard reflects current U.S. law.
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- Adoption of this standard would not automatically dismantle the United States' current tariff rate quota (TRQ) system.
- Distributors and importers will benefit from less paperwork, fewer FDA "import alerts" that currently delay many cheese imports, and shorter or eliminated quarantine times.
- Importers and distributors will be able to expand their businesses when the United States drops its ban on the import of all raw-milk cheese.
- The proposed standard increases the variety and safety of all cheese sold in the United States, which in turn, will boost consumer confidence and sales.
- The proposed standard reaffirms the U.S. position that when credible scientific evidence of human health risk exists, international standards should be set at levels that will minimize that risk.
- U.S. producers will benefit because imported cheese usually sells for a premium price. This is likely to 1) promote low or moderately priced cheese for everyday consumption, or 2) raise prices for domestically produced cheese. Because U.S. producers already adhere to high standards, they would also gain a short-term competitive advantage as other nations work to adopt the high Codex standard.

### **Benefits for Europe**

- The recommendation allows the French government to respond to recent outcries for government action to protect the French public from listeria while at the same time protecting the interests of French dairy farmers and cheese producers.
- An agreement on a pasteurization or equivalent processing requirement removes one contentious issue that would likely lead to difficulties in creating the European Food Safety Agency.
- The structure of the proposed recommendation allows room for exceptions for small dairy producers, products from intra-community trade, etc.
- Codex standards are not automatically imposed on nations. Codex member countries can choose to apply standards at lower levels than those set by Codex. Countries have to provide scientific evidence only when they apply standards at higher levels.
- The European Union would not have to adopt this standard internally. It could continue to sell traditionally produced cheese within the Union.
- The standard provides several alternatives for ensuring the safety of cheese, ranging from aging to pasteurization, heat treatment, sterilization, irradiation and other treatments of milk.
- The standard would not cause a flood of imported cheese to enter the European market.
- The standard provides access to U.S. markets for more varieties of European cheeses.
- The standard expands opportunities for European exporters and distributors in the U.S. market.
- Uniform standards ease the burden of complying with multiple standards, which can be cost prohibitive for small, traditional producers.
- The standard affects only a small number of European producers who export unaged, raw-milk cheese.

## Listeriosis Backgrounder

### Listeria bacteria

*Listeria monocytogenes* are bacteria that can cause the serious food-borne illness listeriosis. Listeria bacteria are found everywhere in the environment including in soil, dust, and water. Scientists have only relatively recently discovered that the bacteria can be transmitted through food.

*Listeria monocytogenes* bacteria are not easily killed. They live through heat, salt, nitrate, and acidity better than many other forms of bacteria. They grow in low oxygen conditions and multiply while refrigerated at temperatures as low as 24 degrees Fahrenheit. The bacteria's ability to live through traditional food preservation techniques is one of the reasons they have become recognized as dangerous food-borne pathogens.

The U.S. Centers for Disease Control and Prevention estimate that, in an average year, 1,850 people contract listeriosis in the United States and 425 people die as a result. French public health officials estimate that more than 2,000 people become ill in France every year and that 238 people die annually as a result of listeriosis.

### Listeriosis (the disease)

Listeriosis is the disease caused by *Listeria monocytogenes* bacteria. It is often misdiagnosed because its early symptoms resemble the flu including fever, fatigue, nausea, vomiting, and diarrhea. Flu-like symptoms may occur 12 hours after eating contaminated food. However, it takes between one and six weeks for a serious case of listeriosis to develop. These symptoms can precede a more serious illness caused by listeriosis including, meningitis (brain infection) and septicemia (bacteria in the bloodstream). Listeriosis can even cause death.

### People at Greatest Risk

- Pregnant women are at particular risk because *Listeria monocytogenes*, unlike most bacteria, can cross the placental barrier from mother to unborn baby. It often results in spontaneous abortions.
- Newborn infants
- Small children
- The elderly
- Those with compromised immune systems

Generally, healthy people do not contract listeriosis even after eating contaminated foods.

### High Risk Foods

- Raw milk
- Raw milk dairy products: cheese, cream, and butter

- Traditionally produced meats
- Cold cuts

### Minimizing Risk

Food processors can minimize the risk posed by these foods by using the following methods:

- Pasteurization, heat treatment, or sterilization of milk for consumption or for processing.
- Aging.
- Irradiation of both dairy and meat products.
- Proper sanitation practices.
- Maintaining the “cold chain”—keeping foods at proper temperatures from production to consumption.

### Listeriosis outbreaks related to dairy products

Country	Year	Number of Reported Cases*	Number of Deaths	Food Implicated
USA	1983	49	14	Milk
USA	1985	142	48	Raw milk soft cheese, Mexican-style
England	1986	1	0	Soft cheese
Switzerland	1983-7	122	34	Vacherin Mont d’Or, soft cheese made from thermised milk
USA	1987	1	Not known	Raw milk
England	1988	1	0	Soft cheese
England	1988-9	155	0	Raw milk Stilton cheese
Canada	1989	1	0	Soft cheese
Belgium	1989	1	0	Fresh cream and ice cream
Denmark	1989-0	26	6	Hard and blue cheese
France	1992	279	63	Raw milk soft cheese, Vacherin Mont d’Or
USA	1994	45	0	Chocolate milk
USA	1995			Raw milk Mexican-style cheese
France	1995	33	4	Raw milk soft cheese, Brie de Meaux

Finland	1998-9	18	4	Butter
France	1999	2**	2	Raw milk cheese
France	1999-00	23?	7	Raw milk products, jellied pork tongue, or both

\*Researchers estimate that more than half of all listeriosis cases go unreported because people assume that they have contracted the flu. Advances in medical technology have allowed for better diagnoses and treatment of the disease.

\*\*It is likely that there were many more cases were not reported.

For further information please consult the following sites:

U.S. Centers for Disease Control and Prevention  
**U.S. Food and Drug Administration ([www.fda.gov](http://www.fda.gov))**  
**U.S. Department of Agriculture ([www.usda.gov](http://www.usda.gov))**  
**State and county health departments**

## Europe

International Dairy Federation ([www.idf.org](http://www.idf.org))  
 Institut Pasteur, Listeria Research Center ([www.pasteur.fr](http://www.pasteur.fr))

## Sample Press Release

### For Immediate Release

Contact: XXXXXXXX

#### **U.S. Dairy Industry Pledges to Work with the European Dairy Industry to Find Solutions to Health Risks Associated with Cheese**

**(Washington D.C. – April 15, 2000)** The U.S. Cheese Industry Association (USCIA) has pledged to step up its efforts to find an international solution to the public health risks that can be posed by cheese consumption. This renewed effort to find internationally acceptable solutions comes after a meeting between the president of USCIA and Yves Dupuy, President of the *Association de la Transformation Laitiere Francaise* (the French Milk Processors Association). The meeting was held in Paris yesterday in conjunction with the French Association's annual member meeting. USCIA president also made remarks to Association members concerning the upcoming agricultural negotiations.

“This most recent epidemic in France has been a tragedy,” the USCIA president said. Seven people, including two newborn infants, have died from listeria poisoning since the end of November. A total of 23 cases of listeriosis have been detected around France, and authorities believe that either traditional French cheese or jellied pork tongue is the source. “The meeting today with M. Depuy will lead to further cooperative efforts between U.S. and French dairy scientists to improve dairy safety.”

In the United States, 425 Americans die and thousands become ill every year as a result of listeriosis, a food-borne illness caused by the bacteria *Listeria monocytogenes*. Scientific evidence shows that cheese, particularly soft cheese, provides a perfect breeding ground for these bacteria.

Listeria poisoning causes fever, severe headaches, stiffness, nausea and diarrhea. Healthy people typically recover quickly, but listeria can cause serious, even fatal infections in children, the elderly and people with weak immune systems. The bacteria is particularly dangerous for pregnant women, because it can cause miscarriages and stillbirths even if the mother experiences no symptoms. Listeriosis can take up to eight weeks to incubate.

The parties who met yesterday in Paris pledged to find ways to cooperate to find solutions that will protect consumer health without hurting international trade in dairy products. They will meet again next month in Rouen, France.

## Appendix 1: U.S. and E.U. Dairy Hygiene Laws

### U.S. Law

The Food, Drug, and Cosmetic Act grants the FDA authority to create and enforce U.S. laws regarding the production and sale of domestically produced dairy products. This same law also grants the FDA authority to draft and enforce laws pertaining to the import of dairy products produced abroad.

The relevant laws are:

- CFR Title 21 – Food and Drugs, Part 1240 - Control of Communicable Disease, Section 61 - Mandatory pasteurization for all milk and milk products in final pack:
  - (a) no person shall cause to be delivered into interstate commerce or shall sell, otherwise distribute, or hold for sale or other distribution after shipment in interstate commerce any milk or milk product in final package form for direct human consumption unless the product has been pasteurized or is made from dairy ingredients (milk or milk products) that have all been pasteurized, except where alternative procedures to pasteurization are provided for by regulation, such as in part 133 of this chapter for curing of certain cheese varieties.
- CFR Title 21 – Food and Drugs, Part 133 – Cheese and Related Products, Section 113:
  - If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35 deg. F for at least 60 days.<sup>82]</sup>

The FDA allows some limited exceptions for intra-state sales of raw milk and raw milk products. The FDA carefully regulates their production and sale.

The United States does not allow the import of any ready-to-eat raw milk products. In 1947, Roquefort cheese from certified production facilities in France was exempted from this ban. However the exemption was revoked as a result of the beef hormone dispute.

### **E.U. Law**

The relevant E.U. law is found in Council Directive 92/46/EEC. The European position is that consumer safety can be protected if strict veterinary and sanitary practices are followed from production to consumption for ready-to-eat raw milk dairy products including cheese. These sanitary practices include: using raw milk from herds that are in good health and that have regular veterinary inspections and are subject to regular sanitary controls; collecting, transporting, stocking and transforming milk within a short period of time while applying strict hygienic rules; informing consumers of proper storage conditions and shelf-life to ensure the safety of the end product.

Relevant provisions of Council Directive 92/46/EEC read:

- Article 6

Member States shall ensure that milk-based products are manufactured only from:

1. either raw milk that complies with the requirements set out in Article 3 and the standards and specifications laid down in Annex C, Chapter I, and if appropriate has passed through a milk-collection or a milk-standardization centre fulfilling the conditions laid down in Annex B, Chapters I, II, III, IV and VI;
2. or milk intended for the manufacture of milk-based products obtained from raw milk which meets the requirements of paragraph 1 and
  - (a) comes from a treatment establishment which meets the requirements of Annex B, Chapters I, II, V and VI;
  - (b) has been stored and transported in accordance with the requirements of Annex C, Chapter V.

- Article 7

A. Milk-based products must:

1. have been obtained from milk that meets the requirements of Article 6 or from milk-based products that satisfy the requirements of the present Article;
2. be prepared in a processing establishment that meets the standards and specifications of Annex B, Chapters I, II, V and VI and has been checked in accordance with Article 10 (2) and Article 14;
3. meet the standards laid down in Annex C, Chapter II;

4. be wrapped and packaged in accordance with Annex C, Chapter III, and, if they are in liquid form and intended for sale to the final consumer, with point 3 of that Chapter;
5. be labeled in accordance with Annex C, Chapter IV;
6. be stored and transported in accordance with Annex C, Chapter V;
7. be checked in accordance with Article 14 and with Annex C, Chapter VI;
8. where appropriate, contain only substances, other than milk, that are fit for human consumption;
9. have undergone heat treatment during the manufacturing process or be made from products that have undergone heat treatment or involve hygiene specifications that are sufficient to meet the guaranteed hygiene criteria for all finished products.  
In addition, milk-based products must meet the requirement in Article 5 (8) regarding the accompanying commercial document.

B. Pending possible Community rules on ionization, milk and milk-based products intended for trade must not have been subjected to ionizing radiation.

- Article 8

1. For the manufacture of cheese with a period of ageing or ripening of at least 60 days Member States may grant individual or general derogations as follows:
  - (a) as regards the characteristics of raw milk, from the requirements of Annex A, Chapter IV;
  - (b) provided that the finished product has the characteristics provided for in Annex C, Chapter II.A, from Article 7 A., points 2 and 4;
  - (c) from Annex C, Chapter IV.B.2.
 General and particular requirements applicable to the manufacture of individual products and standards specific to this type of product shall be adopted, as necessary in accordance with the procedure laid down in Article 31.
2. In accordance with the procedure laid down in Article 31, Member States may, in so far as certain requirements of this Directive are likely to affect the manufacture of milk-based products with traditional characteristics, be authorized to grant individual or general derogations from Article 7 A.(1) to (4), provided that the milk used in the manufacture of such products meets the requirements of Annex A, Chapter I.  
Not later than three months before the date specified in Article 32 Member States shall inform the Commission of the list of products in respect of which they are requesting application of the first subparagraph and of the nature of the derogations requested.  
When the decision provided for in the first subparagraph is taken, the general and particular conditions applicable to the manufacture of each specific product shall, if necessary, be determined.
3. A list of products 'made with raw milk' may be drawn up in accordance with the procedure laid down in Article 31.

Annex C referred to in Council Directive 92/46/EEC lays out acceptable bacterial content for finished products, including cheese. *Listeria* bacteria must be absent in all cheese sold

on the market.

Imports into the EU must meet the minimum standards required for E.U. producers. The relevant provision in Council Directive 92/46/EEC reads:

Chapter III, Imports from third countries, Article 22, The conditions applicable to imports from third countries of raw milk, heat-treated milk and milk-based products covered by this Directive must be at least equivalent to those laid down in Chapter II for Community production.<sup>[83]</sup>

## Appendix 2: Summary of World Cheese Production –

### Major Producers and Consumers

*All figures from 1997 in 1,000 metric tons*

<b>Cheese producers</b>	<i>Cheese production</i>	<i>Cheese exports</i>	<i>Cheese imports</i>
<i>EU (12)*</i>	5,664	515	116
<i>US</i>	3,330	35	155
<i>France</i>	1,600	115	10
<i>Italy</i>	945	50	20
<i>Germany</i>	915	100	15
<i>Netherlands</i>	691	90	13
<i>Denmark</i>	290	73	1
<i>Switzerland</i>	135	65	40
<i>United Kingdom</i>	355	20	25
<i>New Zealand</i>	240	225	1
<i>Australia</i>	261	113	33
<i>Mexico</i>	400	0	25
<i>Japan</i>	30	0	170

\* Excludes intra-European Community trade.

Based on figures published by the Foreign Agricultural Service.<sup>83</sup><sup>[84]</sup>

## Appendix 3: Listeriosis and Its Costs to the U.S. Cheese Industry

### Overview

*Listeria monocytogenes* bacteria can cause listeriosis, a serious food-borne illness. *Listeria* bacteria are found everywhere in the environment including soil, dust, and water. The bacteria have been known to infect animals since 1911 and the first case of human infection was detected in 1929.<sup>84</sup><sup>[85]</sup> Scientists have discovered only relatively recently that the bacteria can be transmitted through food. A series of outbreaks in the 1980s related to pasteurized milk (contaminated post-pasteurization), Mexican-style (raw milk) cheese, and cole slaw brought recognition that listeria is a public health hazard.<sup>85</sup><sup>[86]</sup> The bacteria find their way onto the table a variety of ways. Animal manure used as fertilizer can spread the bacteria to uncooked vegetables. Milk produced by animals that carry the bacteria can become contaminated. Meat from infected animals often contains the bacteria. Finally, processed foods, such as soft cheeses and cold cuts can be made from contaminated products or can become contaminated during and after processing.<sup>86</sup><sup>[87]</sup> The CDC estimates that in an average year 1,850 people in the United States contract listeriosis and 425 people die as a result.<sup>87</sup><sup>[88]</sup>

## ***Listeria Monocytogenes* – The Bacteria**

*Listeria* refers to a genus of bacteria. *Listeria monocytogenes* is one species in the genus that can cause listeriosis. Researchers have found the bacteria in water, dust, sewage, leaf litter, and soil. Animals and people can harbor the bacteria in the intestinal tract without becoming ill.<sup>88</sup><sup>[89]</sup> Researchers estimate that two to six percent of the healthy population harbors the bacteria without signs of illness.<sup>89</sup><sup>[90]</sup> *Listeria monocytogenes* is frequently present in raw foods of both plant and animal origin and can also be present in cooked foods due to post-cooking contamination. *Listeria monocytogenes* has been isolated in raw milk and pasteurized fluid milk (contaminated post-pasteurization), cheeses (particularly soft-ripened cheese), ice cream, raw vegetables, fermented raw meat sausages, raw and cooked poultry, all types of raw meats, and raw and smoked fish. In fact it is not uncommon to find *Listeria monocytogenes* in the average refrigerator.<sup>90</sup><sup>[91]</sup>

*Listeria monocytogenes* bacteria are not easily killed. They can live through heat, salt, nitrate, and acidity better than many other forms of bacteria. They grow in low oxygen conditions and multiply while refrigerated at temperatures as low as 24 degrees Fahrenheit. This is unusual; most bacteria can not multiply while refrigerated. Freezing stops multiplication but does not kill the bacteria.<sup>91</sup><sup>[92]</sup>

The virility of the bacteria makes this food-borne pathogen particularly challenging to control. Traditional means of controlling other food-borne pathogens include proper washing, refrigeration, freezing, pasteurizing, and cooking. However, these methods do not always work in killing *Listeria monocytogenes*. Heat treatment kills the bacteria in milk, milk products, juices and ready-to-eat processed meats. However, unless Good Manufacturing Practices (stringent industry guidelines) are followed, contamination can occur after processing.<sup>92</sup><sup>[93]</sup>

## **Listeriosis – The Disease**

Listeriosis is the disease caused by *Listeria monocytogenes* bacteria. Often preliminary symptoms are flu-like and can include fever, fatigue, nausea, vomiting, and diarrhea. These symptoms can precede a more

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serious illness caused by listeriosis including meningitis (brain infection) and septicemia (bacteria in the bloodstream). Pregnant women are at particular risk because *Listeria monocytogenes* is one of few bacteria that can cross the placental barrier from mother to unborn baby. Complications from infection can result in miscarriage, stillbirth, septicemia or meningitis in newborns. In older children and in adults, complications often include central nervous disorders, but may include pneumonia, endocarditis (inflammation of the lining of the heart and valves). Skin contact with the bacteria may cause localized abscesses or skin lesions.<sup>93</sup><sup>[94]</sup>

Flu-like symptoms may occur 12 hours after eating *Listeria* contaminated food. However, it takes between one and six weeks for a serious case of listeriosis to develop. Researchers estimate that the onset time likely depends on the health of the patient, the strain of the bacteria and/or the amount of the bacteria ingested.

Generally, healthy people do not contract listeriosis even after eating contaminated foods. Many people carry the bacteria in the intestinal tract and never become ill. However, the elderly, pregnant women, infants and children, and those with compromised immune systems are at a very high risk for contracting a serious case of listeriosis. The FDA and the USDA conclude, “The highest incidence of listeriosis has been in persons over 60 years old and newborns. One third of infections occur during pregnancy and may lead to spontaneous abortions or serious illness in newborns. Others most at risk include patients with immune systems compromised by cancer, AIDS, or immunosuppressive medications such as steroids; and patients suffering from cirrhosis, diabetes and ulcerative colitis.”<sup>94</sup><sup>[95]</sup>

The Centers for Disease Control and Prevention (CDC) estimate that listeriosis causes five percent of the 9,000 annual food poisoning deaths in the United States. That means in an average year, 1,850 people contract listeriosis and 425 people die as a result.<sup>95</sup><sup>[96]</sup>

## Incidence

Listeriosis is most commonly contracted through the consumption of contaminated foods, although there have been a few isolated reports of occupational listeriosis. Veterinarians and farm workers, for example, have developed skin infections.<sup>96</sup><sup>[97]</sup>

The CDC has been actively studying *Listeria monocytogenes* and listeriosis since it became known as a food-borne epidemic in 1981. Studies conclude that people who have contracted listeriosis had likely eaten soft cheeses or food purchased from store delicatessen counters. Thirty-two percent of sporadic disease could be attributed to consumption of these two foods.<sup>97</sup><sup>[98]</sup>

A study done by the CDC in 1998 found that the incidence of listeriosis was 0.5 per 100,000 people. Incidences of all nine food-borne illnesses surveyed were found to be 51.2 per 100,000 people. So while the incidence of listeriosis is relatively low, the consequences can be severe. The CDC reported through their Foodborne Diseases Active Surveillance Network (FoodNet) that of all food-borne illnesses, “the rate of hospitalization was highest for persons infected with *L.monocytogenes* (88 percent).”<sup>98</sup><sup>[99]</sup> The report goes on to note that of all the food-borne pathogens tracked by CDC, “*L.monocytogenes* had the highest case fatality rate in that 20 percent of persons hospitalized with listeriosis died.”<sup>99</sup><sup>[100]</sup>

In France, most people contract listeriosis after eating contaminated food, usually raw milk dairy products or processed meats. French researchers estimate that 80 percent of those who contract listeriosis require

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hospitalization. On average, 238 people die each year in France from listeriosis—accounting for population size, two times the U.S. death rate due to listeriosis.<sup>100</sup><sup>[101]</sup>

### Listeriosis Outbreaks Related to Dairy Products

Country	Year	Number of Reported Cases*	Number of Deaths	Food Implicated
USA	1983	49	14	Milk
USA	1985	142	48	Raw milk soft cheese, Mexican-style
England	1986	1	0	Soft cheese
Switzerland	1983-7	122	34	Vacherin Mont d'Or, soft cheese made from thermised milk
USA	1987	1	Not known	Raw milk
England	1988	1	0	Soft cheese
England	1988-9	155	0	Raw milk Stilton cheese
Canada	1989	1	0	Soft cheese
Belgium	1989	1	0	Fresh cream and ice cream
Denmark	1989-0	26	6	Hard and blue cheese
France	1992	279	63	Raw milk soft cheese, Vacherin Mont d'Or
USA	1994	45	0	Chocolate milk
USA	1995			Raw milk Mexican-style cheese
France	1995	33	4	Raw milk soft cheese, Brie de Meaux <sup>101</sup> <sup>[102]</sup>
Finland	1998-9	18	4	Butter
France	1999	2**	2	Raw milk cheese
France	1999-00	23?	7	? raw milk products or jellied pork tongue

\*Researchers estimate that more than half of the cases of listeriosis go unreported because people assume that they have contracted the flu.

\*\*It is likely that many more cases were not reported.

## The Costs of Food-Born Illness

The costs associated with food-born illnesses are large and are absorbed by both the private and the public sectors. The National Restaurant Association estimates the average cost of a single food-born illness outbreak for a business at more than \$75,000.<sup>102</sup><sup>[103]</sup> The CDC estimates that federal costs average \$200,000 per food-born illness outbreak. Additionally, the CDC estimates that the combined cost to business and government of all food-born illness in the United States in one average year, 1993, were between \$5.6 and \$9.4 billion.<sup>103</sup><sup>[104]</sup> In the private sector, businesses bear the expense of recalls and loss of sales. Additionally, businesses are usually held liable and are frequently sued for damages after an illness outbreak. Both business and industry associations spend considerable money and energy on “damage control” and on trying to regain lost consumer confidence that results from food-born illness outbreaks. In the public sector, considerable sums of money are spent on containment of outbreaks, public healthcare associated with outbreaks, and monitoring and research of food-born illness.

## Costs of *Listeria monocytogenes* and listeriosis

The following are some specific examples of the costs associated with *Listeria monocytogenes* and listeriosis.

### Recalls

- According to the National Cheese Institute, public recalls cost the dairy industry millions of dollars every year.<sup>104</sup><sup>[105]</sup>
- Last year, Kohler Mix Specialties, Inc. recalled all milk and milk products that *might* have been contaminated with *Listeria monocytogenes*. A nationwide recall such as this costs upwards of \$1 million.
- Thorn Apple’s current recall of 30 million pounds of hot dogs, *possibly* contaminated with listeria, is expected to cost \$1-7 million.
- Sara Lee is currently recalling listeria-contaminated processed meats that have resulted in 11 confirmed deaths. This recall is expected to cost the company \$76 million.<sup>105</sup><sup>[106]</sup>

### Sales Losses

- Sales of Epoisses, a brand of raw milk French cheese, have plummeted 60 percent since it was linked to the deaths a newborn baby and a woman near Paris, France in April 1999. Health authorities closed down the factory that produces the cheese, Fromagerie d'Epoisses-Fromagers d'Armancon, which halted production and consequently hurt sales of other cheeses produced in the same factory.<sup>106</sup><sup>[107]</sup>
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- In 1998, during Thorn Apple's hot dog recall that resulted from *possible* Listeria contamination, Thorn Apple lost \$12.4 million, or \$2.02 per share, in one quarter. Sales fell by \$16.6 million the previous year.<sup>107</sup><sup>[108]</sup>
- According to Tracy Irwin Hewitt from the Council on Food, Agricultural and Resource Economics, "The high mortality rate of listeriosis causes significant economic losses to the food industry in lost sales and liability."<sup>108</sup><sup>[109]</sup>

### Liability<sup>109</sup><sup>[110]</sup>

- In 1999, three executives from a cheese company in Burgundy, France were charged with involuntary manslaughter after several people died as a result of a listeria outbreak related to their cheese.<sup>110</sup><sup>[111]</sup>
- In a very recent case, a couple who lost a one-day-old baby to listeriosis filed a wrongful death and product liability lawsuit against Bil mar Foods, a subsidiary of Sara Lee. The couple is seeking more than \$25,000 for each of six claims filed in the lawsuit.<sup>111</sup><sup>[112]</sup>

### Damage control and restoring consumer confidence

- Vice President for a major grocery retailer both note that public relations efforts aimed at damage control and restoring consumer confidence can be extremely costly in the wake of an outbreak of food-borne illness. At the very least, these efforts will occupy the time of the food safety director, a public relations director, and a lawyer and their staffs for the duration of the outbreak or recall. After the recall and outbreak are over, the marketing and public relations offices expand further energy and resources trying to regain consumer confidence and boost sales.<sup>112</sup><sup>[113]</sup>
- After a recent outbreak of listeriosis in France, a pork processing facility spent \$1 million trying to restore consumer confidence. It doubled the number of independent laboratory tests of its products, invited television cameras to view its revised sanitation procedures, and ran extensive advertisements throughout France. Even with all of these expensive efforts, the plant stopped production and shut down due to near non-existent sales.<sup>113</sup><sup>[114]</sup>

### Productivity loss due to listeriosis

- A 1996 study by USDA's Economic Research Service puts the public medical costs and productivity losses due to listeriosis at \$200 to 300 million a year.<sup>114</sup><sup>[115]</sup>

### Public expenditures on healthcare, containment and monitoring of an outbreak

- The CDC estimates public expenditures per listeria outbreak average \$200,000.
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- Approximately \$300 million is spent on microbial food-borne diseases annually by the Federal public health sector.<sup>115</sup><sup>[116]</sup>

## **Appendix 4: International Public Relations Strategy**

### ***Scope of Outreach***

Primary: Italy, Denmark, Switzerland, Sweden, and Norway

Secondary: Rest of Europe

### ***Targets of Coverage***

- **Government Officials**

EU Codex Delegates; individual EU Member State Codex Delegates; EU WTO negotiators; David Burn, EU Minister of Agriculture; Swedish Ministry of Agriculture; Dutch Ministry of Agriculture Nature Management and Fisheries; Livsmedelsverket (Swedish Food Agency); Italian Ministry of Agriculture, Italian Ministry of Health, Swiss Ministry of Agriculture, Swiss Ministry of Health, Danish Ministry of Health, Danish Ministry of Health, Norwegian Ministry of Agriculture, Norwegian Food Safety Agency

- **Industry**

Dairy farmers; cheese producers, distributors, and sellers, The European Dairy Association; Dutch Dairy Association; Swedish Milk; ARLA (national Swedish dairy distributor); Associations; EUROLAIT – the European Union of Importers, Exporters, and Dealers in Dairy Products; the European Association of Mozzarella Manufacturers Association of the Processed Cheese Industry in the European Union.

- **Individuals**

Consumers; women; pregnant women; mothers; elderly; those with compromised immune systems.

- **Academic Institutions**

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These research institutions have departments that specialize in one or more of the following: dairy hygiene, dairy production, agriculture, and international trade.

**Sweden:** Swedish Testing and Research Institute, Chalmers Institute, Uppsala University, Lund University, Stockholm University

**Norway:** Universitetet I Oslo, Universitetet I Trondheim, Universitetet I Tromsø, Universitetet I Bergen.

**Denmark:** Koebenhavns Universitet, Aalborg Universitet, Aarhus Universitet, Roskilde Universitetcenter

**Italy:** Universita Bocconi di Milano, Universita Cattolica di Milano, Universita La Sapienza di Roma, Universita La Normale di Pisa

### ***Media Outlets***

- Journalists
  - Tommy Norin, Swedish journalist for *Dagens Industri* who writes about dairy industry issues in Sweden, and worldwide.
  - Giorgio Bocca, writes for *L'espresso*, a widely-read news publication in Italy.
  - Vittorio Sgarbi, *TV Canale 5* (Italian reporter who stirs up scandal)  
Striscia la Notizia, *TV Canale 5* (Italian reporter who stirs up scandal)
- Newspapers
  - Sweden: *Dagens Industri*, *Svenska Dagbladet*, *Dagens Nyheter*
  - Norway: *Aftenposten*, *VG*, *Dagbladet*
  - France: *Le Monde*, *Liberté*
  - Netherlands: *De Telegraaf*
  - Italy: *l'Espresso*, *Italia Oggi*, *Milano Finanza*, *Panorama*, *Avvenire*, *il Messaggero*  
Denmark: *Berlingske*, *Politikken*, *Jylands Posten*, *Boersen*
  - Switzerland: *La Tribune*
  - Belgium: *Le Soir*, *Het Laatste Nieuws*, *Nieuwsblad*, *International Harold Tribune*,
  - United Kingdom: *London FinaUSCIAal Times*, *The Independent*, *The Times of London*
- **Industry Association Newsletters:**

EUROLAIT – the European Union of Importers, Exporters, and Dealers in Dairy Products, the European Association of Mozzarella Manufacturers Association, of the Processed Cheese Industry in the European Union, *Association de la Transformation Laitiere Francaise* (The French Milk Processors Association) and the European Dairy Association, Dutch Dairy Association, Swedish Milk, ARLA (national Swedish dairy distributor)

### ***Action Steps***

- Identify European academics, particularly in Sweden, Norway, and France, who can write authoritatively on the safety benefits of a pasteurization or equivalent processing requirement.
- Ask Codex delegates to send studies and findings from public health authorities and research institutes regarding listeria to media outlets.
- Continue to identify and cultivate relationships with media contacts who can write about this issue.
- Send Listeria Backgrounder to Consumer’s International in Switzerland, Denmark and Italy.

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People	Interests	Options	BATNA	Objective Criteria
<b>U.S. Cheese Industry Assn. (USCIA)</b>	<ul style="list-style-type: none"> <li>Maintaining status quo in US regulatory system</li> </ul>	<ul style="list-style-type: none"> <li>Lobby FDA</li> <li>Lobby US Codex</li> </ul>	Mount a national lobbying	SPS Agreement, US law, EU law, FDA and USDA monitoring and testing budgets,

<p>Members constitute 80% of US cheese industry.</p> <p>Largest association of cheese manufacturers, processors, assemblers, and distributors of cheese and cheese products in the US.</p>	<ul style="list-style-type: none"> <li>• Represent interests of US cheese industry</li> <li>• Seeing that US Codex delegates represent USCIA's interests</li> <li>• End unfair competition (EU subsidies)</li> <li>• US Codex adopt position</li> <li>• Represent members</li> <li>• Increase dairy sales in US</li> <li>• Expand export markets for members</li> <li>• Limit liability and minimize risk for members</li> <li>• Maintain consumer confidence in cheese</li> <li>• Minimize health risks associated with cheese</li> <li>• Protect US consumers</li> <li>• encourage cheese consumption</li> <li>• market cheese as a healthy and safe product</li> </ul>	<p>Delegates</p> <ul style="list-style-type: none"> <li>• Build coalition</li> <li>• Lobby Congress</li> <li>• Organize domestic grass roots lobbying campaign</li> <li>• Use IDF connection</li> <li>• Harness public opinion in France</li> <li>• Lobby other country's Codex delegations</li> <li>• Public awareness campaign in US and EU</li> <li>• Accept status quo</li> <li>• Block consensus in CCFH</li> <li>• Not include standard for raw milk products in Milk Code</li> </ul>	<p>campaign in the US targeted at FDA officials, US Codex delegates, Members of Congress and consumers to maintain status quo in US regulation</p>	<p><u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures</u></p> <p><u>Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993," <u>Traité de Microbiologie Clinique</u>," "Listeria, Listeriosis and Food Safety,"</p> <p>"La listériose en France en 1995 et 1996." Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health</p>
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	<ul style="list-style-type: none"> <li>Positive outcome of next Round of trade negotiations</li> </ul>			effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics
<p><b>US Food and Drug Administration (FDA)</b></p> <p>US regulatory agency charged with regulating US dairy food producers, including imports. Part of US Codex Delegation and lead for drafting <i>Code of Hygienic Practice for Milk and Milk Products</i>.</p>	<ul style="list-style-type: none"> <li>“To protect, promote and enhance the health of the American people.</li> </ul> <p>Ensure that:</p> <ul style="list-style-type: none"> <li>foods are safe, wholesome, and sanitary; human and veterinary drugs, biological products, and medical devices are safe and effective; cosmetics are safe; and electronic products that emit radiation are safe;</li> <li>Regulated products are honestly, accurately, and informatively represented; and</li> <li>These products are in compliance with FDA</li> </ul>	<ul style="list-style-type: none"> <li>Hold interagency meetings to build support for proposal</li> <li>Lobby other nations’ Codex delegations</li> <li>Testify before Congress</li> <li>Gather current scientific evidence</li> <li>Meet with other nations’ regulatory departments</li> <li>Retain status quo</li> <li>Harness public support</li> <li>Stall work on the</li> </ul>	As member of lead drafting country, include the standard and forward it to CAC for consideration or adoption without consensus.	<p>Public health expenditure costs, FDA monitoring and testing budget, SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria, Listeriosis and Food Safety</i>,” “<i>La listériose en</i></p>

	<p>regulations; noncompliance is identified and corrected; and any unsafe or unlawful products are removed from the marketplace.”<sup>116[117]</sup></p> <ul style="list-style-type: none"> <li>• Make best use of scarce resources</li> <li>• Avoid political problems</li> <li>• Adoption of <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>• Adopting standards that benefit American producers and consumers</li> <li>• Avoiding bad publicity for adopting standards that are too low</li> <li>• Harmonizing international standards at according to appropriate levels of risk</li> </ul>	<p><i>Code</i></p> <ul style="list-style-type: none"> <li>• Stop work on the <i>Code</i></li> <li>• Negotiate with EU Directorate General IV</li> <li>• Recruit expert witnesses to provide information to CCFH</li> <li>• Consult IDF, make certain their position matches US</li> <li>• Redraft current draft of the Milk Code</li> <li>• Accept lower standards</li> <li>• Request an accelerated timetable for adoption,</li> <li>• Ask CAC Chair (USDA representative) to pressure for adoption of</li> </ul>	<p>France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with <i>Listeria monocytogenes</i>, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
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		standard		
<p><b>US Department of Agriculture (USDA)</b></p> <p>US regulatory agency charged with regulating US dairy farmers, milk production and inspecting cheese production facilities.</p> <p>Part of US Codex Delegation and lead for drafting <i>Code of Hygienic Practice for Milk and Milk Products</i></p> <p>Thomas J. Billy, USDA Administrator, Chairs CAC through July 2001.</p>	<ul style="list-style-type: none"> <li>Increasing US dairy exports</li> <li>Promoting US agricultural products</li> <li>Represent interests of (diary) farmers, and milk producers</li> <li>Maintain fair prices for US farm products</li> <li>Fair world market prices for milk and related products</li> <li>End European dairy subsidies</li> <li>Increase competitiveness for US milk farmers and producers</li> <li>Avoid political problems</li> <li>Avoid bad press</li> <li>Successful outcome of next Round of Agricultural negotiations</li> </ul>	<ul style="list-style-type: none"> <li>Hold interagency meetings to build support for proposal</li> <li>Lobby other nations' Codex delegations</li> <li>Testify before Congress</li> <li>Gather current scientific evidence</li> <li>Meet with other nations' regulatory departments</li> <li>Retain status quo</li> <li>Harness public support</li> <li>Ask CAC to accelerate adoption timeframe</li> <li>Redraft current draft of the <i>Code of Hygienic Practice for Milk and Milk</i></li> </ul>	<p>As member of lead drafting country, include the standard and forward it to CAC for consideration or adoption without consensus.</p>	<p>Public health expenditure costs, USDA monitoring and testing budget, SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993," <i>Traité de Microbiologie Clinique</i>," "Listeria, Listeriosis and Food Safety," "La listériose en France en 1995 et 1996." Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency,</p>

		<p><i>Products</i></p> <ul style="list-style-type: none"> <li>Consult IDF, try to gain their support</li> </ul>		National Food Safety Database – Hot Topics
<p>US Trade Representative(USTR)</p> <p>US government Executive Branch agency charged with US trade policy, including WTO interactions.</p>	<ul style="list-style-type: none"> <li>Eliminate trade barriers</li> <li>Expand markets for American products and services</li> <li>Successful outcome of the next Round of multilateral negotiations</li> <li>High-paid export job creation</li> <li>Economic growth in US and abroad</li> <li>Promote and protect US producers and exporters</li> <li>See that US law meets international obligations</li> <li>Avoid WTO Dispute Settlement Proceedings</li> <li>Access to EU agriculture market for US products</li> <li>End EU subsidization of dairy products including</li> </ul>	<ul style="list-style-type: none"> <li>Hold interagency meetings to build support for proposal</li> <li>Discuss in next Round of multilateral negotiations</li> <li>Testify before Congress</li> <li>Negotiate with EU Commissioner for External Relations</li> <li>Negotiate with EU Commissioner for Agriculture</li> <li>Accept status quo and risk DSU</li> <li>Gather scientific evidence to support US standards</li> </ul>	<p>If Codex adopts standards that are higher than US, prepare scientific justification in preparation for WTO Dispute Settlement Proceedings.</p>	<p>SPS Agreement , WTO Panel and Appellate Body reports regarding: EU- Beef Hormones (precautionary principle) and Japan,- Measures Affecting Agriculture (primacy of sound scientific evidence), SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <u>Traité de Microbiologie Clinique</u>,” “<u>Listeria, Listeriosis and Food Safety</u>,” “<u>La listériose en France en 1995 et 1996</u>.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry <i>Listeria</i> information, CDC reports, National Center for Infectious Disease reports, state health departments, International</p>

	<p>cheese</p> <ul style="list-style-type: none"> <li>Seeing that US laws conform to international standards</li> </ul>			<p>scientific studies - including French, Swedish, economic statistics on costs associated with <i>Listeria monocytogenes</i>, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
<p>US Codex Delegation</p> <p>Comprised of representatives from FDA, USDA, and EPA</p>	<ul style="list-style-type: none"> <li>Increasing food safety</li> <li>Increasing international food trade</li> <li>Basing standards on credible scientific evidence</li> <li>Harmonizing dairy standards at high levels</li> <li>Forwarding US position on other current issues at Codex (food labeling, pesticide residue, beef hormones etc.)</li> <li>Maintaining relationship with other Codex members</li> </ul>	<ul style="list-style-type: none"> <li>Build consensus for USCIA proposal</li> <li>Minimize opposition</li> <li>stop work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>postpone work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>Redraft the <i>Code of Hygienic Practice for Milk and Milk</i></li> </ul>	<p>As lead drafting country, include the standard and forward it to CAC for consideration with a request for an accelerated timetable for adoption.</p>	<p>SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures</u></p> <p><u>Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria</i>, Listeriosis and Food Safety,”</p> <p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, IDF scientific reports,</p>

	<ul style="list-style-type: none"> <li>• Setting standards that will be upheld by WTO (consensus)</li> <li>• Reducing NTBs</li> <li>• Maintaining credibility</li> <li>• Limiting negative press</li> <li>• Avoiding Congressional oversight</li> <li>• Represent interests of US industries</li> <li>• Represent national interests, including the administration, industry, and the public.</li> </ul>	<p><i>Products</i></p> <ul style="list-style-type: none"> <li>• Accept lower standards</li> <li>• Request a sped up timetable for adoption,</li> <li>• Ask CAC Chair (USDA representative) to pressure for adoption of standard</li> <li>• Accept status quo and risk DSU</li> <li>• Gather scientific evidence to support US standards</li> <li>• Testify before Congress</li> </ul>		<p>industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
<p>Codex Committee on Food Hygiene (CCFH)</p> <p>The Codex Committee charged with harmonizing food safety standards.</p>	<ul style="list-style-type: none"> <li>• Food safety</li> <li>• Harmonizing standards based on science</li> <li>• Meeting national interests</li> <li>• Maintaining credibility internationally</li> <li>• Increasing international food trade</li> </ul>	<ul style="list-style-type: none"> <li>• Consensus referral of standard to CAC</li> <li>• Non-consensus referral to CAC</li> <li>• Stop work on Milk Code</li> <li>• Postpone work on</li> </ul>	<p>Forward the <i>Code of Hygienic Practice for Milk and Milk Products</i> to the CAC without consensus of the full CCFH and request an accelerated timetable for adoption.</p>	<p>SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” Codex Procedures, SPS Agreement, US law, EU law, <u>USDA/FDA Listeria monocytogenes Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on Listeria Monocytogenes</u>, Institut Pasteur</p>

	<ul style="list-style-type: none"> <li>• Future working relationship</li> <li>• Creating standards that will be upheld by WTO</li> <li>• Completion of the Milk Code</li> <li>• Adoption of the <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>• Forwarding work on other issues before the Committee</li> </ul>	<p>Milk Code</p> <ul style="list-style-type: none"> <li>• Not include provisions for raw milk products</li> <li>• Include other provisions for raw milk products</li> <li>• Amend proposed standard</li> <li>• Continue to build consensus</li> <li>• Requesting an accelerated timetable for adoption</li> </ul>		<p>reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria, Listeriosis and Food Safety</i>,”</p> <p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with <i>Listeria monocytogenes</i>, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
<p>Codex Alimentarius Commission (CAC)</p> <p>Organization recognized by WTO SPS Agreement to harmonized food standards.</p>	<ul style="list-style-type: none"> <li>• Ensure food safety in international trade</li> <li>• Harmonize standards</li> <li>• Adopt standards that will be upheld by WTO</li> </ul>	<ul style="list-style-type: none"> <li>• Adopt standards with consensus</li> <li>• Adopt standards without consensus</li> <li>• Send back to CCFH for</li> </ul>	<p>Adopt the standard without full consensus and risk it not being upheld by WTO DSB.</p>	<p>SPS Agreement, WTO Panel and Appellate Body reports: EU- Beef Hormones (precautionary principle) and Japan,- Measures Affecting Agriculture (primacy of sound scientific evidence)Negotiation history of Milk Code, Codex “country</p>

	<ul style="list-style-type: none"> <li>• Consensus adoption of standards whenever possible</li> <li>• International reputation</li> <li>• Minimize national politics in the Codex process</li> <li>• Increase food safety and international trade</li> <li>• Maintain membership</li> <li>• Increase membership</li> </ul>	<p>revision or consensus</p> <ul style="list-style-type: none"> <li>• Do not include standard on the agenda</li> <li>• Put the standard on the agenda for negotiation</li> <li>• Grant an accelerated adoption of the standard</li> </ul>		<p>comments,” Codex Procedures, SPS Agreement, US law, EU law, <u>USDA/FDA Listeria monocytogenes Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on Listeria Monocytogenes</u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <u>Traité de Microbiologie Clinique</u>,” “<u>Listeria, Listeriosis and Food Safety</u>,” “<u>La listériose en France en 1995 et 1996</u>.” Press releases from Jean Glavany, French Minister of Agriculture, IDF scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
<b>International Dairy</b>	<ul style="list-style-type: none"> <li>• Providing sound</li> </ul>	<ul style="list-style-type: none"> <li>• Advise CCFH to</li> </ul>	Include dissenting	SPS Agreement, Negotiation history of

<p><b>Federation (IDF)</b></p> <p>CAC-recognized international NGO of dairy scientists who offer technical advice to CCFH and CCMP</p>	<p>technical advice</p> <ul style="list-style-type: none"> <li>• Advancing individual national interests</li> <li>• Maintain ability to advise Codex Committees</li> <li>• Future working relationship</li> <li>• Increasing dairy safety</li> <li>• Increasing international trade in dairy products</li> <li>• Advancing scientific research in dairy safety</li> </ul>	<p>adopt USCIA proposal</p> <ul style="list-style-type: none"> <li>• Help build consensus in France, Italy, Denmark, and Switzerland</li> <li>• Meet individually with CCFH members to discuss USCIA proposal</li> <li>• Build support among national dairy regulatory bodies</li> <li>• Block consensus for lower standards in CCFH</li> <li>• Include dissenting opinion if lower standards are adopted</li> <li>• Withhold support for lower standards</li> </ul>	<p>opinion if lower standards are adopted</p>	<p>Milk Code, Codex “country comments,” International Dairy Federation technical studies and reports, SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment, (EU) Opinion of the Scientific Committee on Veterinary Measures</u></p> <p><u>Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria, Listeriosis and Food Safety</i>,”</p> <p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with <i>Listeria monocytogenes</i>, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety</p>
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				Database – Hot Topics
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People	Interests		Options	BATNA
Center for Science in the Public Interest  NGO based in the US	<ul style="list-style-type: none"> <li>Monitor and report Codex activities and to public</li> <li>Monitor regulatory agencies to see that they act in the public's best interest</li> <li>Public and consumer safety</li> <li>Harmonized standards are at high-levels</li> <li>US does not lower standards based on international pressure</li> <li>Public health in the US</li> <li>Protecting vulnerable populations from risks associated with cheese</li> <li>That international standards decisions</li> </ul>	<ul style="list-style-type: none"> <li>Inform public of CCFH activities</li> <li>Lobby FDA/USDA</li> <li>Lobby congress</li> <li>Make dissenting opinion public if lower standards are adopted</li> <li>Join USCIA to make issue public through a national lobbying campaign</li> <li>Start coalition of other NGOs</li> <li>Help build consensus internationally</li> </ul>	Make dissenting opinion public if lower standards are adopted	<p>Codex delegate reports, SPS Agreement, Negotiation history of Milk Code, Codex "country comments," International Dairy Federation technical advice, SPS Agreement, US law, EU law, <u>USDA/FDA Listeria monocytogenes Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on Listeria Monocytogenes</u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993," <u>Traité de Microbiologie Clinique</u>," "Listeria, Listeriosis and Food Safety," "La listériose en France en 1995 et 1996." Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA</p>

	are made based on science instead of politics			Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics
French Codex Delegates	<ul style="list-style-type: none"> <li>• Represent interests of French government, dairy farmers, producers, population</li> <li>• Operating within political realities in France</li> <li>• Working relationship with other delegates</li> <li>• Increasing food safety</li> <li>• Increasing international food trade</li> <li>• Basing standards on appropriate risk</li> <li>• Harmonizing dairy standards at risk appropriate levels</li> <li>• Forwarding French position on other current issues at Codex (food</li> </ul>	<ul style="list-style-type: none"> <li>• Take advantage of current listeria outbreak in France to support standard</li> <li>• Build consensus in France for standard</li> <li>• Minimize opposition</li> <li>• Stop work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>• postpone work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>• Redraft current draft</li> <li>• Press for lower standards</li> <li>• Accept status quo</li> <li>• Garner support for a WTO case against</li> </ul>	Try to block standard from being included in Milk Code; if that fails, withhold support for the entire Code.	400 years of traditional production practices, FLAIR Programme reports (cooperative program between France, Italy, Switzerland and to find natural inhibitors to Listeria) SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” International Dairy Federation technical advice, SPS Agreement, US law, EU law, <a href="#">USDA/FDA Listeria monocytogenes Risk Assessment</a> , (EU) <a href="#">Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on Listeria Monocytogenes</a> , Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <a href="#">Traité de Microbiologie Clinique</a> ,” “Listeria, Listeriosis and Food Safety,” “La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific

	<p>labeling, pesticide residue, beef hormones etc.)</p> <ul style="list-style-type: none"> <li>• Setting standards that will be upheld by WTO (consensus)</li> <li>• Reducing NTBs</li> <li>• Maintaining credibility</li> <li>• Limiting negative press</li> </ul>	<p>US</p> <ul style="list-style-type: none"> <li>• Gather scientific evidence to support lower standards</li> </ul>		<p>studies - including French, Swedish, economic statistics on costs associated with <i>Listeria monocytogenes</i>, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
Swedish Codex Delegates	<ul style="list-style-type: none"> <li>• Pasteurization requirements for all milk and dairy products</li> <li>• Allowing Sweden to block the import of raw milk dairy products from the rest of the EU</li> <li>• Representing national interests of farmers, producers, public, government</li> <li>• Increasing</li> </ul>	<ul style="list-style-type: none"> <li>• Build consensus for US Codex proposal</li> <li>• Minimize opposition</li> <li>• Stop work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>• postpone work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>• Redraft current draft</li> <li>• Accept</li> </ul>	<p>Support forwarding standard to CAC for consideration or adoption without consensus. Also, go public in Sweden to pressure France on its anti pasteurization stance. Use the creation of the EU Food Safety Agency as leverage.</p>	<p>Swedish studies, SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria</i>, Listeriosis and Food Safety,” “<i>La listériose en France en 1995 et 1996</i>.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy</p>

	<p>food safety</p> <ul style="list-style-type: none"> <li>• Increasing international food trade</li> <li>• Basing standards on credible scientific evidence</li> <li>• Harmonizing dairy standards at high levels</li> <li>• Forwarding Swedish position on other current issues at Codex (food labeling, pesticide residue, beef hormones etc.)</li> <li>• Relationship with other Codex members</li> <li>• Setting standards that will be upheld by WTO (consensus)</li> <li>• Reducing NTBs</li> <li>• Maintaining credibility</li> </ul>	<p>lower standards</p> <ul style="list-style-type: none"> <li>• Request an accelerated timetable for adoption,</li> <li>• Ask CAC Chair to pressure for adoption of standard</li> <li>• Accept status quo</li> <li>• Gather scientific evidence to support US standards</li> <li>• Block work on the EU Food Safety Agency regarding pasteurization</li> </ul>		<p>Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
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	<ul style="list-style-type: none"> <li>Limiting negative press</li> </ul>			
<b>Italian, Swiss, and Danish Codex Delegates</b>	<ul style="list-style-type: none"> <li>Represent interests of national governments, dairy farmers, producers, population</li> <li>Operating within national political realities</li> <li>Working relationship with other delegates</li> <li>Increasing food safety</li> <li>Increasing international food trade</li> <li>Basing standards on appropriate risk</li> <li>Harmonizing dairy standards at risk appropriate levels</li> <li>Forwarding national positions on other current issues at Codex (food labeling, pesticide)</li> </ul>	<ul style="list-style-type: none"> <li>Build consensus for USCIA proposal</li> <li>Minimize opposition</li> <li>Stop work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>Postpone work on <i>Code of Hygienic Practice for Milk and Milk Products</i></li> <li>Redraft current draft</li> <li>Accept lower standards</li> <li>Request an accelerated timetable for adoption,</li> <li>Ask CAC Chair (USDA representative) to pressure for adoption of standard</li> <li>Accept status quo and risk DSU</li> </ul>	<p>Try to block standard from being included in Milk Code; if that fails, withhold support for the entire Code.</p>	<p>400 years of traditional production practices, FLAIR Programme reports (cooperative program between France, Italy, Switzerland and to find natural inhibitors to Listeria)SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <a href="#">USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment</a>, (EU) <a href="#">Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on <i>Listeria Monocytogenes</i></a>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria</i>, Listeriosis and Food Safety,”</p> <p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with</p>

	<ul style="list-style-type: none"> <li>residue, beef hormones etc.)</li> <li>Setting standards that will be upheld by WTO (consensus)</li> <li>Reducing NTBs</li> <li>Maintaining credibility</li> <li>Limiting negative press about Codex activities</li> </ul>	<ul style="list-style-type: none"> <li>Gather scientific evidence to support US standards</li> </ul>		<p>Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
<p>French Cheese Industry</p> <p>Includes farmers, processors, distributors</p>	<ul style="list-style-type: none"> <li>Maintain status quo</li> <li>Maintain the quality of their product</li> <li>Maintain traditional flavor</li> <li>Consumer loyalty</li> <li>Produce safe product</li> <li>Maintain tradition</li> <li>Keep costs down</li> <li>Expand production</li> <li>Maintain ability to sell at current</li> </ul>	<ul style="list-style-type: none"> <li>Strike in the streets Paris</li> <li>Lobby elected government officials</li> <li>Lobby bureaucrats in Ministry of Agriculture</li> <li>Make it a public issue about culture, not food safety</li> <li>Accept changes in the dairy industry</li> <li>Ask for larger quotas licenses for the US if</li> </ul>	<p>Take the issue public, strike in the streets, try to get public opinion on-side; make it very difficult for French government to consent in Codex.</p>	<p>400 years of traditional production practices, FLAIR Programme reports (cooperative program between France, Italy, Switzerland and to find natural inhibitors to Listeria) SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <a href="#">USDA/FDA Listeria monocytogenes Risk Assessment</a>, (EU) <a href="#">Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on Listeria Monocytogenes</a>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <a href="#">Traité de Microbiologie Clinique</a>,” “Listeria,</p>

	<p>levels</p> <ul style="list-style-type: none"> <li>Increasing US cheese import quota</li> </ul>	<p>they agree to Codex standard</p> <ul style="list-style-type: none"> <li>If standard is adopted by Codex, lobby French government to not apply it in Europe</li> <li>Ask for exceptions for small dairy farms</li> <li>Request special exception for certain traditionally produced cheese that do not support listeria</li> </ul>		<p>Listeriosis and Food Safety,”</p> <p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
<p><b>French Ministry of Agriculture</b></p> <p>Jean Glavany, French Minister of Agriculture</p>	<ul style="list-style-type: none"> <li>Represent interests of French dairy industry</li> <li>Security of the food supply</li> <li>Increase French dairy exports</li> <li>Promote French agricultural products</li> <li>Calm public fears about listeria</li> <li>maintain</li> </ul>	<ul style="list-style-type: none"> <li>Build consensus in French government for the standard</li> <li>Build consensus among French public</li> <li>Encourage Institut Pasteur to study and release findings about the current outbreak</li> <li>Bow to political</li> </ul>	<p>Try to stop work on the Code of Hygienic Practice for Milk and Milk Products. Also go public and blame US for the “mount public support against the US proposal.</p>	<p>SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <u>USDA/FDA Listeria monocytogenes Risk Assessment</u>, (EU) <u>Opinion of the Scientific Committee on Veterinary Measures</u></p> <p><u>Relating to Public Health on Listeria Monocytogenes</u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <u>Traité de Microbiologie Clinique</u>,” “Listeria, Listeriosis and Food Safety,”</p>

	<p>EU dairy subsidies</p> <ul style="list-style-type: none"> <li>• Avoid political problems</li> <li>• Avoid bad press</li> <li>• Successful outcome of next Round of Agricultural negotiations</li> <li>• Maintain France's dominant position in EU agriculture</li> <li>• Favorable conditions for farmers</li> </ul>	<p>pressure to quiet information about the current epidemic</p> <ul style="list-style-type: none"> <li>• Make it a public issue food safety, not culture</li> <li>• Ask for larger quotas licenses for the US if they agree to Codex standard</li> <li>• If standard is adopted by Codex, lobby other EU governments not apply it in Europe</li> <li>• Ask for exceptions for small dairy farms</li> <li>• Request special exception for certain traditionally produced cheese that do not support listeria</li> </ul>		<p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
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<p><b>30 Million Consommateurs</b></p> <p>largest consumer NGO in France</p>	<ul style="list-style-type: none"> <li>• Representing consumer interests</li> <li>• Responsible government</li> <li>• Government accountability to citizens, not lobby groups</li> <li>• Informing public of risks associated with products</li> <li>• Safety of products sold in France</li> </ul>	<ul style="list-style-type: none"> <li>• Use considerable public position to maintain interest in the scandal of the current epidemic</li> <li>• Continue to appear on French television and radio discussing the scandal</li> <li>• Not say anything publicly about it</li> <li>• Draw public attention to the current standards being drafted in Codex</li> <li>• Insist that standards should be drafted to appropriately reflect risk, not political influence</li> <li>• Generate consumer information about listeria</li> <li>• Lead consumer boycott of French cheese</li> </ul>	<ul style="list-style-type: none"> <li>• Lead consumer boycott of French cheese to draw public attention current government cover up attempts</li> </ul>	<p>Statements by Minister Jean Glavany, Secretary of State Dominique Gillot, public requests from Dairy and Food Processing lobbies asking government to downplay listeria epidemic, SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <u>USDA/FDA <i>Listeria monocytogenes</i> Risk Assessment, (EU) Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on <i>Listeria Monocytogenes</i></u>, Institut Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <u>Traité de Microbiologie Clinique</u>,” “Listeria, Listeriosis and Food Safety,” “La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA</p>
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				Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics
<b>French Public</b>	<ul style="list-style-type: none"> <li>• Food safety</li> <li>• Minimize risks of listeriosis</li> <li>• Consumer information</li> <li>• Maintain traditional culture</li> <li>• Resist US cultural hegemony</li> <li>• “Exporting ” French culture</li> <li>• support traditional ways of life in France</li> </ul>	<ul style="list-style-type: none"> <li>• Demand government disclose risks of raw milk products</li> <li>• Ignore the “scandal” and continue to eat traditional French food</li> <li>• Boycott raw milk cheese</li> <li>• Learn about the risks associated with Listeria</li> <li>• Stop buying</li> </ul>		<p>Personal experience with raw milk cheese, 400 years of traditional production practices, FLAIR Programme reports (cooperative program between France, Italy, Switzerland and to find natural inhibitors to Listeria), SPS Agreement, Negotiation history of Milk Code, Codex “country comments,” SPS Agreement, US law, EU law, <a href="#"><u>USDA/FDA Listeria monocytogenes Risk Assessment</u></a>, (EU) <a href="#"><u>Opinion of the Scientific Committee on Veterinary Measures Relating to Public Health on Listeria Monocytogenes</u></a>, Institut</p>

	<ul style="list-style-type: none"> <li>• Ability to choose cheese made from raw milk or pasteurized milk</li> <li>• Responsive government</li> </ul>	<ul style="list-style-type: none"> <li>• raw milk cheese</li> <li>• Lobby government officials to represent public interests not agricultural lobbies</li> </ul>	<p>Pasteur reports: Listeriosis outbreak associated with the consumption of rillettes in France in 1993,” <i>Traité de Microbiologie Clinique</i>,” “<i>Listeria, Listeriosis and Food Safety</i>,”</p> <p>“La listériose en France en 1995 et 1996.” Press releases from Jean Glavany, French Minister of Agriculture, International Dairy Federation scientific reports, industry Listeria information, CDC reports, National Center for Infectious Disease reports, state health departments, International scientific studies - including French, Swedish, economic statistics on costs associated with Listeria monocytogenes, public health effects, FDA Import Alerts, recall information, EU White Paper on Establishing Food Safety Agency, National Food Safety Database – Hot Topics</p>
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<sup>[1]</sup> Listeriosis is a sometimes-fatal food-borne illness caused by the bacteria, *Listeria monocytogenes*.

Information on listeria and listeriosis is included in Appendix 3 of this paper.

<sup>[2]</sup> Jeffrey J. Schott, *The Uruguay Round: An Assessment*, p. 8. Member countries recognized that measures adopted by national governments under GATT Article XX (General Exceptions) could be used as disguised non-tariff barriers.

<sup>[3]</sup> Article 2.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[4]</sup> Marsha A. Echols, “Sanitary and Phytosanitary Measures,” p. 199.

<sup>[5]</sup> Article 5.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[6]</sup> Article 5.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[7]</sup> Marsha A. Echols, “Sanitary and Phytosanitary Measures,” p. 200.

<sup>[8]</sup> Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[9]</sup> Marsha A. Echols, “Sanitary and Phytosanitary Measures,” p. 201.

<sup>[10]</sup> Article 3.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[11]</sup> Article 3.1-3.4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[12]</sup> Marsha A. Echols, “Sanitary and Phytosanitary Measures,” p. 206.

<sup>[13]</sup> Article 4.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

<sup>[14]</sup> Article 7 and Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures.

- [15] Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- [16] “Codex: Protecting Consumers’ Health and Facilitating International Trade.” *Food Insight*, May/June 1998.
- [17] “Codex and the International Food Trade,” p.2. Available from [www.fao.org/docrep/W9114e/W9114e06.htm](http://www.fao.org/docrep/W9114e/W9114e06.htm)
- [18] *Ibid.*
- [19] As explained by a U.S. Codex Delegate and confirmed by *Codex Procedures*.
- [20] “The IDF Observers’ Report Summary on the Third Session of the Codex Committee on Milk and Milk Products.” International Dairy Federation, 15 July 1997. Available from [www.fil-idf.org/codex](http://www.fil-idf.org/codex).
- [21] According to the *Cheese Reporter*, 9 July, 1999. Prior to his election as Chair, Billy served as Vice Chair of the CAC for two years. He has also served as U.S. Codex coordinator and U.S. delegate to the CAC.
- [22] According to the U.S. Codex website, <http://www.fsis.usda.gov/OA/codex/del.htm> [cited 1 December, 1999].
- [23] According to. <http://www.fao.org/WAICENT/faoinfo/economic/esn/risk/risktext.htm>
- [24] Potentially Hazardous Food as defined by the FDA.
- [25] From interview with cheese industry association official, 4 October 1999.
- [26] U.S. law requires that all dairy products be made from pasteurized milk or that cheeses made from raw milk be aged for sixty days under specified conditions. These provisions are meant to reduce risk to consumers. For the text of the law, see the Appendix 1.
- [27] Jean Garsuault, “Is pasteurization of milk indispensable in cheese production?” September 1997, Available from [www.fromages.com/usa/chro0997.htm](http://www.fromages.com/usa/chro0997.htm).
- [28] “USA Delegation Report for the Codex committee on Food Hygiene drafting Group Meeting for the Code of Hygienic Practice for Milk and Milk Products,” 22-25- March, 1999. P. 2. Available from [www.fsis.usda.gov:80/OA/codex/rep\\_brussels1.htm](http://www.fsis.usda.gov:80/OA/codex/rep_brussels1.htm).
- [29] See the Appendix 1 for the text of the law.
- [30] Marsha A. Echols, “Food Safety Regulation in the European Union and in the United States: Different Cultures, Different Laws,” p. 5
- [31] *Ibid.*, pp. 5-6.
- [32] *Ibid.*
- [33] The International Dairy Federation (IDF), located in Brussels, Belgium, is an international NGO made up of dairy industry representatives. It provides technical advice to the CCFH and the CCMP.
- [34] “USA Delegation Report for the Codex committee on Food Hygiene drafting Group Meeting for the Code of Hygienic Practice for Milk and Milk Products,” 22-25- March 1999. Available from [www.fsis.usda.gov:80/OA/codex/rep\\_brussels1.htm](http://www.fsis.usda.gov:80/OA/codex/rep_brussels1.htm).
- [35] Center for Science in the Public Interest. Memo, U.S. position on Codex Draft Medium-Term plan for 1998 to 2002. 23 December, 1997 [cited 28 September, 1999.] Available from [www.cspinet.org/reports/codex/draftmem.htm](http://www.cspinet.org/reports/codex/draftmem.htm)
- [36] According to U.S. Delegate to Codex and lead U.S. Delegate to the CCFH, it was widely rumored that France had threatened to withhold aid money to any of its former colonies if they sided against France on the issue of pasteurization.
- [37] Center for Science in the Public Interest. Memo, U.S. position on Codex Draft Medium-Term plan for 1998 to 2002. 23 December, 1997 [cited 28 September, 1999.] Available from [www.cspinet.org/reports/codex/draftmem.htm](http://www.cspinet.org/reports/codex/draftmem.htm) p.2-3.
- [38] According to U.S. Codex Delegation.
- [39] According to U.S. Codex Delegation.
- [40] Report of the US Delegate – 32<sup>nd</sup> Session of the Codex Committee on Food Hygiene, 29 Nov.-4 Dec. 1999. [made public 16 December, 1999.] Available from [http://www.fsis.usda.gov/OA/codex/rep\\_fh99.htm](http://www.fsis.usda.gov/OA/codex/rep_fh99.htm)
- [41] Marsha A. Echols, World Trade Organization: Multilateral Trade Framework for the 21<sup>st</sup> Century and U.S. Implementing Legislation, pp. 201-2.
- [42] *Ibid.*, p. 202.
- [43] Jeffery Schott, The Uruguay Round: An Assessment, p. 53
- [44] *Ibid.*, p. 52.
- [45] As reported in “The High Price of Foodborne Illness,” North Dakota State University. <http://www.ext.nodak.edu/extpubs/yf/foods/fn572-1.htm#The>

[46] As reported by the Cosmetic, Toiletry and Fragrance Association. Available from the [http://www.ctfa.org/ctfapublic/hccm\\_009.htm](http://www.ctfa.org/ctfapublic/hccm_009.htm)

[47] Marsha A Echols, "Food Safety Regulation in the European Union and the United States: Different Cultures, Different Laws." p. 11.

[48] Tracy Irwin Hewitt, Statement Before Stakeholders, "Economics and Listeria Research," sponsored by USDA, Food Safety and Inspection Service. The Council on Food, Agricultural and Resource Economics, 10 February, 1999. Available from <http://www.cfare.org/statements/9902listeria.shtml>.

[49] "Couple Blames Daughter's Death on Listeriosis. Akron Beacon Journal, 30 September, 1999. Available from [www.foodsafety.org/ht/ht/47](http://www.foodsafety.org/ht/ht/47).

[50] According to the World Food Review, (9) 2 1999.

[51] "IICA, NCI to Assist with DFA Listeria Risk Assessment." International Dairy Foods Association, News Update, August, 1999. Available from [www.idfa.org/news/listeria.htm](http://www.idfa.org/news/listeria.htm).

[52] Jeremy Russell, "Heard on the Hill." National Meat Association-Internet News, 1999. Available from <http://www.exnet.iastate.edu/files/fscurrent/19990222100732.txt>

[53] "France's Fromage Fatale: Two Deadly Cases of Food Poisoning Have Been Linked to Raw Milk Cheeses." The Los Angeles Times, 28 April, 1999. Available from <http://www.foodsafety.org/ht/ht379.htm>

[54] Meat Industry Insights, Internet News. Available from <http://www.pb.net/spc/mii/990214.htm>

[55] If there are no large lawsuits, damage control and restoring consumer confidence can be the single largest expense in a food-borne illness outbreak.

[56] According to a France 2 news report, 29 February 2000.

[57] Ibid.

[58] According to FDA sources.

[59] According to estimates from Brian Russell, Commercial Diplomacy Professor, Monterey Institute of International Studies.

[60] According to FDA Official, U.S. Codex Delegate, and point person on the Code of Hygienic Practice for Milk and Milk Products.

[61] As reported by the Cosmetic, Toiletry and Fragrance Association. Available from [http://www.ctfa.org/ctfapublic/hccm\\_009.htm](http://www.ctfa.org/ctfapublic/hccm_009.htm)

[62] Jeffery Schott, The Uruguay Round: An Assessment, p. 52.

[63] Chirac has publicly stated that Codex is nothing more than a political tool.

[64] One U.S. NGO is calling for congressional oversight of the FDA due to recent activities within the Codex Committee of Food Labeling. Additionally, the results of the Seattle Ministerial have left many Americans wondering why the U.S. participates in multilateral activities that limit America's ability to act unilaterally.

[65] The United States and the EU both have hygiene laws that govern the production and sale of dairy products produced and sold domestically, as well as laws governing the import of dairy products. The laws are strikingly similar with one exception. U.S. law allows the domestic production and sale of raw milk cheese if it is aged under certain conditions. Citing public health risk, the U.S. bans the import of all raw milk products, including cheese. The EU applies the same regulations to all cheese, whether domestically produced or imported. Any raw milk cheese is allowed for sale in the EU as long as it meets minimum EU requirements. If challenged under the WTO dispute settlement provisions, the United States would have to justify the discrepancy for domestically produced and imported raw-milk cheese. It is not clear that the United States could win this challenge because the import ban appears to violate the national treatment provision of the GATT Agreement.

[66] Jean Glavany, French Minister of Agriculture, is the only government official that has used the term "epidemic."

[67] "Platform of the American Cheese Society Regarding Mandatory Pasteurization." Available from [www.cheesesociety.org/platform.htm](http://www.cheesesociety.org/platform.htm). visited 16 September, 1999.

[68] CSPI has been scrutinizing the process of creating Codex dairy hygiene standards for more than four years. A self-appointed watchdog agency, it believes that harmonizing standards can only be beneficial if they are set at high levels. CSPI has made it very clear that if U.S. Codex Delegates agree to dairy hygiene standards that do not require pasteurization or equivalent measures, it will take the issue public. In the wake of the Seattle Ministerial, it would probably be easy for CSPI to get public support for its position. This also would likely make future Codex negotiations difficult for the United States.

[69] Safeway stopped carrying raw milk and un-aged raw milk cheese due to public health risks in 1984.

[70] Ibid.

[71] “U.S., EU Sign Vet Agreement More than Two Years After Completion.” Inside US Trade, 23 July, 1999.

[72] “TABD Seeks Transparency in EU Development of Precautionary Principle.” Inside US Trade, 14 May, 1999.

[73] Organizations that have expressed concern about food irradiation include the National Food Processors Association; the American Association of Meat Processors; American Bakers Association; the American Meat Institute; the American Spice Trade Association; Food Distributors International; the Food Marketing Institute; the Food Safeguards Council; Food Technology Services, Inc.; the Grocery Manufacturers of America; the Infection Control Advisory Network; the Infectious Diseases Society of America; the Institute of Shortening and Edible Oils; the International Association of Color Manufacturers; the International Fresh Cut Produce Association; Kansas State University; the National Cattlemen's Beef Association; the National Chicken Council; the National Fisheries Institute; the National Meat Association; the National Restaurant Association; the Nebraska Food Processing Center; North American Meat Processors; the Ozark Food Processors Association; the Pacific Seafood Processors Association; the Snack Food Association; the Society of the Plastics Industries; SteriGenics International; STERIS Corporation -- Isomedix Services; and Titan Scan Corporation. Other groups providing endorsement for the petition include the American Society of Microbiology; the Association of Food and Drug Officials; and Consumer Alert. “Food Irradiation Coalition Petitions FDA to Allow Irradiation on Variety of Ready-To-Eat Foods.” Press Release, Food Irradiation Coalition. 23 August, 1999. Available from [www.riskworld.com/PressRel/1999/PR99aa51.htm](http://www.riskworld.com/PressRel/1999/PR99aa51.htm)

[74] According to Director of Regulatory Affairs for a large dairy foods industry association.

[75] U.S. Codex Delegation, Codex Committee on Food Hygiene, 32<sup>nd</sup> Session, 1999

U.S. Draft Position, Proposed Draft Code of Hygienic Practice for Milk and Milk Products at Step 4. 15 November, 1999.

[76] [As evidenced by the fact that most nations have adopted regulations governing the sale and import of cheese. Most nations recognize cheese's potentially hazardous nature and the pattern of food-borne illness outbreaks associated with cheese.](#)

[77] USCIA should be willing to support the end of the ban on all raw milk cheese if this standard is adopted by Codex. It should also lobby USTR to drop import the ban on Roquefort that was applied as a result the beef hormone dispute.

[78] Broadcast of France 2, daily news from France, 22 February 2000.

[79] Institut Pasteur is a private, non-profit public health research center in France. It is respected world wide as one of the premier public health research institutions.

[80] In an effort to avoid the need for formal negotiations, IDFA has met with officials from these organizations to find mutually agreeable solutions to problems.

[81] USCIA should be willing to support the end of the ban on all raw milk cheese if this standard is adopted by Codex. It should also be willing to lobby USTR to drop import the ban on Roquefort that was applied as a result the beef hormone dispute.

[82] Code of Federal Regulations, Title 21, Food and Drugs.

[83] “Community Legislation in Force,” Document 392L0046, Council Directive 92/46/EEC, 16 June 1992, which laid out the health rules for the production and sale of raw milk, heat-treated milk and milk-based products. Available from [http://europa.eu.int/eur-lex/en/lif/dat/1992/en\\_392L0046.html](http://europa.eu.int/eur-lex/en/lif/dat/1992/en_392L0046.html).

[84] [U.S. Department of Agriculture, Foreign Agricultural Service. Dairy Production and Trade Development. 24 August, 1998. Available from www.fas.usda.gov/dlp2/circular/1998/98-07dairy/dptd.htm](#)

[85] U.S. Department of Agriculture/Food Safety Inspection Service and the U.S. Health and Human Services/ Food and Drug Administration Background Document, Preventing Foodborne Listeriosis, April 1992, p. 1.

[86] U.S. Food and Drug Administration, Structure and Initial Data Survey for the Risk Assessment of the Public Health Impact of Foodborne *Listeria Monocytogenes*, 13 May 1999, p.2.

[87] Centers for Disease Control and Prevention General Information: Listeriosis.

[88] *Ibid.*, p.4

[89] U.S. Department of Agriculture/Food Safety Inspection Service and the U.S. Health and Human Services/ Food and Drug Administration Background Document Preventing Foodborne Listeriosis, April 1992, p. 1

[90] U.S. Food and Drug Administration Structure and Initial Data Survey for the Risk Assessment of the Public Health Impact of Food-borne *Listeria Monocytogenes*, 13 May 1999, p.2.

[91] *Ibid.*

- [92] U.S. Department of Agriculture/Food safety Inspection Service and the U.S. Health and Human Services/ Food and Drug Administration Background Document, Preventing Foodborne Listeriosis, April 1992, p. 1
- [93] According Director of Food Safety for a large food retailer.
- [94] *Ibid.*, p.3
- [95] *Ibid.*, p.3
- [96] *Ibid.*, p.4
- [97] *Ibid.*, p.2
- [98] Centers for disease Control and Prevention, "Update: Foodborne Listeriosis -- United States, 1988-1990." Morbidity and Mortality Weekly. 17 April, 1992 / 41(15);251,257-258.
- [99] U.S. Food and Drug Administration Structure and Initial Data Survey for the Risk Assessment of the Public Health Impact of Foodborne *Listeria Monocytogenes*, 13 May 1999, p.2.
- [100] *Ibid.*
- [101] Institute Pasteur. "Rapport d'activité de l'unité Laboratoire des Listeria." Available from [www.pasteur.fr/recherche/RAR/RAR1998/Listeria.html](http://www.pasteur.fr/recherche/RAR/RAR1998/Listeria.html).
- [102] Three executives from the responsible cheese company in Burgundy have been charged with involuntary manslaughter, according to the World Food Review, (9) 2 1999
- [103] As reported in, "The high price of foodborne illness." North Dakota State University. <http://www.ext.nodak.edu/extpubs/yf/foods/fn572-1.htm#The>
- [104] As reported by the Cosmetic, Toiletry and Fragrance Association. Available from [http://www.ctfa.org/ctfapublic/hccm\\_009.htm](http://www.ctfa.org/ctfapublic/hccm_009.htm)
- [105] "IICA, NCI to Assist with DFA Listeria Risk Assessment." International Dairy Foods Association, News Update, August, 1999. Available from [www.idfa.org/news/listeria.htm](http://www.idfa.org/news/listeria.htm).
- [106] Jeremy Russell, "Heard on the Hill." National Meat Association-Internet News, 1999. Available from <http://www.exnet.iastate.edu/files/fscurrent/19990222100732.txt>
- [107] "France's Fromage Fatale: Two Deadly Cases of Food Poisoning Have Been Linked to Raw Milk Cheeses." The Los Angeles Times, 28 April, 1999. Available from <http://www.foodsafety.org/ht/ht379.htm>
- [108] Meat Industry Insights, Internet News. Available from <http://www.pb.net/spc/mii/990214.htm>
- [109] Tracy Irwin Hewitt, Statement Before Stakeholders, "Economics and Listeria Research," sponsored by USDA, Food Safety and Inspection Service. The Council on Food, Agricultural and Resource Economics, 10 February, 1999. Available from <http://www.cfare.org/statements/9902listeria.shtml>.
- [110] Marsha A. Echols, lawyer and expert on the SPS Agreement, states that one reason U.S. food safety laws tend to fall on the side of caution is out of "fear of product liability claims," which is a greater threat in the U.S. than in other countries. Marsha A Echols, "Food Safety Regulation in the European Union and the United States: Different, Cultures, Different Laws." p. 11.
- [111] According to the World Food Review, (9) 2 1999.
- [112] "Couple Blames Daughter's Death on Listeriosis." Akron Beacon Journal, 30 September, 1999. Available from [www.foodsafety.org/ht/ht/47](http://www.foodsafety.org/ht/ht/47).
- [113] If there are no large lawsuits, damage control and restoring consumer confidence can be the single largest expense in a food-born illness outbreak.
- [114] According to a France 2 news report, 29 February 2000.
- [115] *Ibid.*
- [116] As reported by the Cosmetic, Toiletry and Fragrance Association. Available from [http://www.ctfa.org/ctfapublic/hccm\\_009.htm](http://www.ctfa.org/ctfapublic/hccm_009.htm)

