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FOOD AND AGRICULTURE  
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JOINT OFFICE: Viale delle Terme di Caracalla 00153 ROME Tel: 39 06 57051 www.codexalimentarius.net Email: codex@fao.org Facsimile: 39 06 5705 4593

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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEX COMMITTEE ON FOOD ADDITIVES

#### Thirty-ninth Session

Beijing, China, 24 – 28 April 2007

#### DISCUSSION PAPER ON REVISIONS TO THE GSFA'S FOOD CATEGORY SYSTEM

(Prepared by Indonesia with the assistance of China, Japan, Korea, Sri Lanka, Thailand, Tunisia, and the United States)

#### INTRODUCTION

1. At the 38<sup>th</sup> Session of the Codex Committee on Food Additives and Contaminants (CCFAC), the Delegation of Indonesia submitted a proposal for the revision of the Food Category System (FCS) of the General Standard for Food Additives (GSFA) (CRD 11). This proposal concerned the reassignment of food categories encompassing soybean-based food products.

2. The Committee agreed to establish an electronic Working Group (eWG), led by Indonesia (with the assistance of China, Japan, Korea, Sri Lanka, Thailand, Tunisia, and the United States), to develop a discussion paper and, according to the procedure established at its 36<sup>th</sup> Session (ALINORM 04/27/12, para. 66), include a Project Document for the Revision of the FCS of the GSFA for circulation and consideration at its next Session (ALINORM 06/29/12, para. 215).

3. This discussion paper is divided into three sections:

- |             |   |  |
|-------------|---|--|
| Section I   | : | Revision of the FCS of the GSFA (Food Category Titles and Descriptors) |
| Section II  | : | Revision of the Annex to Table 3 of the GSFA                           |
| Section III | : | Project Document for the Revision of the FCS of the GSFA               |

#### GENERAL OVERVIEW OF COMMENTS RECEIVED

4. The purpose of this work is to consider revision of the FCS of the GSFA (Codex STAN 192-1995, Annex B) so that food categories that include soybean-based food products (06.8 (Soybean products (excluding soybean products of food category 12.9 and fermented soybean products of food category 12.10), 12.9 (Protein products), and 12.10 (Fermented soybean products)) would be reassigned to more appropriately group types of soybean-based foods within the hierarchy of the FCS.

5. Some delegations commented that the FCS is influenced by several factors. According to the basic principle of the FCS, it is based on the similarity of food consumption patterns (i.e., food that is considered in a similar way or in similar quantities is usually similarly processed and contain similar additives at similar use levels.), similarities in food processing (e.g., heat treatment, canned, frozen) and similarities of food technology needs. On the other hand, the FCS is intended as a basis for identifying food categories for additive intake assessment for the purpose of establishing the draft of the GSFA. When it comes to the use of an additive, as any food additive is permitted in a general category, that additive is automatically permitted in all its sub-categories (unless specific exceptions are noted). Therefore, the revision of the FCS does really have to take the aspects mentioned into account.

6. The first draft for the revision of FCS prepared by Indonesia as the lead country had been circulated for comments since September 2006. In the first round only one member of the working group namely the United States, commented.

7. The second draft for the revision of FCS was circulated to the members of working group in December 2006. In the second round there were some constructive comments from Japan, Thailand and the United States.

8. Despite of the fact that not all the members of the working group provided their comments, the members were always notified with the progress of the proposed draft revision. Based on the constructive comments received, the working group compiled those comments and assigned the outcome of the compilation as the final Discussion Paper for the Revision of FCS of the GSFA to be discussed at the 39<sup>th</sup> Session of the Codex Committee on Food Additives.

## **SECTION I: REVISION OF THE FCS OF THE GSFA (FOOD CATEGORY TITLES AND DESCRIPTORS)**

The 36<sup>th</sup> CCFAC forwarded the FCS of the GSFA (ALINORM 04/27/12, Appendix V) for adoption at Step 8 to the 27<sup>th</sup> Session of the Codex Alimentarius Commission (CAC). The 27<sup>th</sup> CAC adopted the FCS at Step 8 (ALINORM 04/27/12, Appendix III). The FCS has most recently been revised at the 38<sup>th</sup> CCFAC (ALINORM 06/29/12, para. 214 and Appendix XXXIII), and adopted by the 29<sup>th</sup> CAC (ALINORM 06/29/41, Appendix IV). The version below reflects the most recent revision.

The proposed revision of the FCS concerns the reassignment of food categories that include soybean-based food products. These products are currently found in food categories 06.8 (Soybean products (excluding soybean products of food category 12.9 and fermented soybean products of food category 12.10)), 12.9, and 12.10 (Fermented soybean products). The proposal would:

- (1) place soybean-based food products, excluding those used as seasonings or condiments, or for preparing home made products (e.g., tofu), that are now included in food categories 12.9 and 12.10 into new food sub-categories under category 06.8;
- (2) revise food category 12.9 to include soybean-based products used as seasonings or condiments that have been reassigned from the current 12.10; and
- (3) revise food category 12.10 to include certain products derived from protein sources other than soybeans.

Only those food categories for which revision to the food category title (Part I) or to the descriptor of the food category (Part II) are being proposed are provided below. The proposed revisions are shown as follows. For the food category titles (Part I), proposed deletions are noted in ~~strikethrough~~ text, and proposed amendments are noted in **bold** text. Due to the length and complexity of the descriptors of the food categories (Part II), the proposed descriptors for the newly reassigned food categories under 06.8, 12.9 and 12.10 are shown in **bold** text; these descriptors, as they currently appear, are *not* shown in ~~strikethrough~~ text. Minor editorial changes to descriptors, for consistency with the proposal, are noted in ~~strikethrough~~ text (proposed deletions) or **bold underlined** text (proposed amendments). Finally, the footnote numbers have been revised, as appropriate.

It should be noted that in the food category titles and descriptors for 06.8.1, 06.8.2, and 06.8.3, the term “milk” has been proposed as other term for “beverage” in connection with soybean products, based on the reason that the term of milk can be used for the non-milk product in case the name of a product the exact nature of which is clear from traditional usage or when the name is clearly used to describe a characteristic quality of the non-milk product.

### **PART I: Food Category System**

04.2.2.7 Fermented vegetable (including mushrooms and fungi, roots and tubers, pulses and legumes, and aloe vera) and seaweed products, excluding fermented soybean products of food ~~category 12.10~~ **categories 06.8.6, 06.8.7, 12.9.1 and 12.9.2**

06.8 Soybean products (excluding soybean products of food category 12.9) ~~and fermented soybean products of food category 12.10)~~

**06.8.1 Soybean milk/beverage**

**06.8.2 Soybean milk/beverage film**

**06.8.3 Soybean curd (tofu)**

**06.8.4 Semi-dehydrated soybean curd**

**06.8.4.1 Thick gravy-stewed semi-dehydrated soybean curd**

**06.8.4.2 Deep fried semi-dehydrated soybean curd**

**06.8.4.3 Semi-dehydrated soybean curd, other than food categories 06.8.4.1 and 06.8.4.2**

**06.8.5 Dehydrated soybean curd (kori tofu)**

**06.8.6 Fermented soybeans (e.g., natto, tempe)**

**06.8.7 Fermented soybean curd (soybean cheese)**

12.0 Salts, spices, soups, sauces, salads, protein products (~~including soybean protein products~~) and fermented soybean products)

**12.9 Soybean-based seasonings and condiments****12.9.1 Fermented soybean paste (e.g., miso)****12.9.2 Soybean sauce****12.9.2.1 Fermented soybean sauce****12.9.2.2 Non fermented soybean sauce****12.9.2.3 Other soybean sauce**~~12.9~~ **12.10 Protein products other than from soybeans**~~12.9.1~~ Soybean protein products~~12.9.1.1~~ Soybean beverage~~12.9.1.2~~ Soybean beverage film~~12.9.1.3~~ Other soybean protein products (including non fermented soy sauce)~~12.9.2~~ Fresh bean curd (tofu)~~12.9.3~~ Semi-dehydrated bean curd~~12.9.3.1~~ Thick gravy stewed semi-dehydrated bean curd~~12.9.3.2~~ Deep fried semi-dehydrated bean curd~~12.9.3.3~~ Semi-dehydrated bean curd, other than food categories 12.9.3.1 and 12.9.3.2~~12.9.4~~ Dehydrated bean curd (kori tofu)~~12.9.5~~ Other protein products~~12.10~~ — Fermented soybean products~~12.10.1~~ Fermented soybeans (e.g., natto)~~12.10.2~~ Fermented soybean curd (soybean cheese)~~12.10.3~~ Fermented soybean paste (e.g., miso)~~12.10.4~~ Fermented soy sauce**PART II: Food Category Descriptors****04.2.2.3 Vegetables (including mushrooms and fungi, roots and tubers, pulses and legumes, and aloe vera) and seaweeds in vinegar, oil, brine, or soy sauce:**

Products prepared by treating raw vegetables with salt solution excluding fermented soybean products. Fermented vegetables, which are a type of pickled product, are classified in 04.2.2.7. Fermented soybean products are classified in ~~12.10~~ **06.8.6, 06.8.7, 12.9.1, and 12.9.2**. Examples include: pickled cabbage, pickled cucumber, olives, pickled onions, mushrooms in oil, marinated artichoke hearts, achar, and piccalilli. Examples of Oriental-style pickled vegetables include: *tsukemono* such as rice bran pickled vegetables (*nuka-zuke*), *koji*-pickled vegetables (*koji-zuke*), sake lees-pickled vegetables (*kasu-zuke*), *miso*-pickled vegetables (*miso-zuke*), soy sauce-pickled vegetables (*shoyu-zuke*), vinegar-pickled vegetables (*su-zuke*) and brine-pickled vegetables (*shio-zuke*). Other examples include: pickled ginger, pickled garlic, and chili pickles.

**04.2.2.7 Fermented vegetable (including mushrooms and fungi, roots and tubers, pulses and legumes, and aloe vera) and seaweed products, excluding fermented soybean products of food category 12.10 06.8.6, 06.8.7, 12.9.1 and 12.9.2:**

Fermented vegetables are a type of pickled product, formed by the action of lactic acid bacteria, usually in the presence of salt.<sup>1</sup> Traditional Oriental fermented vegetable products are prepared by air-drying vegetables and exposing them to ambient temperatures so as to allow the microorganisms to flourish; the vegetables are then sealed in an anaerobic environment and salt (to generate lactic acid), spices and seasonings are added.<sup>2</sup> Examples include: red pepper paste, fermented vegetable products (some *tsukemono* other than category 04.2.2.3), *kimchi* (fermented Chinese cabbage and vegetable preparation), and sauerkraut (fermented cabbage). Excludes fermented soybean products (e.g., *natto*, soybean cheese, *miso*, and fermented soy sauce), which are found in food category 12.10 **that are found in food categories 06.8.6 (e.g., *natto* and *tempe*), 06.8.7 (soybean cheese), 12.9.1 (e.g., *miso*), and 12.9.2 (fermented soybean sauce).**

**06.8 Soybean products (soybean-based seasonings and condiments of food category 12.9) and fermented soybean products of food category 12.10):**

Includes frozen and dried, soybeans, cooked, or fried, **or fermented** soybeans **products, and soybean curd products.** etc.

**06.8.1 Soybean milk/beverage**

Products prepared from dried soybeans that are soaked in water, pureed, ~~diluted with water~~, boiled and strained. Soybean milk/beverage may be consumed as is, or used to prepare other soybean products, such as those in food categories 06.8.2 (Soybean milk/beverage film), 06.8.3 (Soybean curd (tofu)), 06.8.4 (Semi-dehydrated soybean curd), and 06.8.5 (Dehydrated soybean curd (kori tofu)).<sup>3, 4, 5</sup> Also includes soybean protein, such as soybean milk/beverage powder, which is sold as is, for reconstitution, or as a mix containing a coagulant that can be reconstituted by the consumer for preparation of home-made soft tofu.<sup>3, 6</sup>

**06.8.2 Soybean milk/beverage film:**

Film formed on the surface of boiling soy beverage that is dried. It may be deep-fried or softened in water prior to use in soups or poached food. Also known as *fuzhu* or *yuba*.<sup>6, 7, 8</sup>

**06.8.3 Soybean curd (tofu):**

Soybean curd is prepared from dried soybeans that are soaked in water, pureed, and strained to produce soybean milk/beverage, which is then made into a curd with a coagulant, and placed in a mold. Tofu may be of a variety of textures (e.g., soft, semi-firm, firm).<sup>3, 4</sup>

**06.8.4 Semi-dehydrated soybean curd:**

Tofu that has been pressed while being molded into blocks so that some moisture has been removed, but so that it is not completely dried (see food category 06.8.5). Semi-dehydrated tofu typically contains 62% water, and has a chewy texture.<sup>3</sup>

**06.8.4.1 Thick gravy-stewed semi-dehydrated soybean curd:**

Partially dehydrated tofu that is cooked (stewed) with a thick sauce (e.g., miso sauce). The partially dehydrated tofu typically absorbs the sauce, and so regains its original texture.<sup>3</sup>

**06.8.4.2 Deep fried semi-dehydrated soybean curd:**

Partially dehydrated tofu that is deep-fried. It may be consumed as such, or cooked (e.g., stewed in sauce) after frying.<sup>3, 9</sup>

<sup>1</sup> *Food Chemistry*, H.-D. Belitz & W. Grosch, Springer-Verlag, Heidelberg, 1987, pp. 572-576.

<sup>2</sup> *Asian Foods: Science and Technology*, C.Y.W. Ang, K.S. Liu, & Y.-W. Huang, Eds., Chapter 11: Vegetable Products, S.L. Wang, Technomic Publishing Co., Lancaster PA 1999, pp. 320-323.

<sup>3</sup> *The Joy of Japanese Cooking*, K. Takahashi, Shufunomoto Col., Ltd., Japan, 1996, pp. 17-18 and 123-131.

<sup>4</sup> *Taste of Japan*, D. Richie, Kodansha International, Tokyo, Japan, 1992, pp. 34-35.

<sup>5</sup> *Ibid.*, pp.141-153.

<sup>6</sup> *World Food Japan*, Lonely Planet, 2002, p. 35.

<sup>7</sup> *Taste of Japan*, D. Richie, Kodansha International, Tokyo, Japan, 1992, pp. 168-169.

<sup>8</sup> *The Joy of Japanese Cooking*, K. Takahashi, Shufunomoto Col., Ltd., Japan, 1996, p. 31.

**06.8.4.3 Semi-dehydrated soybean curd, other than food categories 06.8.4.1 and 06.8.4.2:**

Partially dehydrated tofu prepared other than by stewing in thick (e.g., miso) sauce or by deep-frying. Includes grilled products and mashed products that may be combined with other ingredients (e.g., to make a patty or a loaf).<sup>3</sup>

**06.8.5 Dehydrated soybean curd (kori tofu):**

Tofu from which all moisture has been removed through the process of freezing, aging, and dehydrating. It may be reconstituted with water or sauce for consumption, or is used directly in prepared dishes. It may also be deep-fried or simmered in sauce.<sup>3</sup>

**06.8.6 Fermented soybeans (e.g., natto, tempe):**

The product is prepared from soybeans that have been steamed and fermented with certain fungi or bacteria (starter). The soft, whole beans have a distinctive aroma and taste. It includes products such as *dou chi* (China), *natto* (Japan), and *tempe* (Indonesia).

**06.8.7 Fermented soybean curd (soybean cheese):**

The product is prepared by forming soybean curd into a loaf during the fermentation process. It is a soft, flavoured product, either in red, rice-yellow, or grey-green.

**12.0 Salts, spices, soups, sauces, salads, protein products (including soybean protein products) and fermented soybean products):**

This is a broad category that includes substances added to food to enhance its aroma and taste (12.1 – salt and salt substitutes; 12.2 – spices; 12.3 – vinegars; and 12.4 - mustards), certain prepared foods (12.5 – soups; 12.6 – sauces; and 12.7 – salads), **and** products composed primarily of protein that are derived from soybeans or from other sources (e.g., milk, cereal, or vegetables) (12.9 - **soybean-based seasonings and condiments; and 12.10 – protein products other than from soybeans**), ~~and fermented soybean products that are used as condiments (12.10 – fermented soybean products).~~

**12.7 Salads (e.g., macaroni salad, potato salad) and sandwich spreads excluding cocoa- and nut-based spreads of food categories 04.2.2.5 and 05.1.3:**

Includes prepared salads, milk-based sandwich spreads, non-standardized mayonnaise-like sandwich spreads, and dressing for coleslaw (cabbage salad).

**12.8 Yeast and like products:**

Includes baker's yeast and leaven used in the manufacture of baked goods. Includes the Oriental products *koji* (rice or wheat malted with *A. oryzae*) used in the production of alcoholic beverages.

**12.9 Soybean-based seasonings and condiments**

**Includes products that are derived from soybeans and other ingredients intended for use as seasonings and condiments, such as fermented soybean paste and soy sauces.**

**12.9.1 Fermented soybean paste (e.g., miso):**

The product is made of soybeans, salt, water, and other ingredients, using the process of fermentation. The product includes *dou jiang* (China), *doenjang* (Republic of Korea), or *miso* (Japan), which may be used in the preparation of soups or dressings, or as a seasoning.<sup>3,10</sup>

**12.9.2 Soybean sauce:**

**A liquid seasoning obtained by fermentation of soybeans and/or non-fermentation or by hydrolysis of vegetable protein.**

**12.9.2.1 Fermented soybean sauce:**

**A clear, non-emulsified sauce made of soybeans, wheat flour, salt, and water by the fermentation process.**

<sup>9</sup> *Asian Foods: Science and Technology*, C.Y.W. Ang, K.S. Liu, & Y.-W. Huang, Eds., Chapter 6: Oriental Soy Foods, K.S. Liu, Technomic Publishing Co., Lancaster PA 1999, pp. 162-163.

<sup>10</sup> *Ibid.*, pp. 173-181.

### **12.9.2.2 Non fermented soybean sauce**

Non-fermented soybean sauce, which is also known as non-brewed soybean sauce, may be produced from vegetable proteins, such as defatted soybeans that are acid-hydrolyzed (e.g., with hydrochloric acid), neutralized (e.g., with sodium carbonate), and filtered.<sup>11</sup>

### **12.9.2.3 Other soybean sauce**

Non-emulsified sauce made from fermented soybean sauce and sugar under caramelization process.

### **12.9 12.10 Protein products other than from soybeans:**

Includes milk protein, cereal protein and vegetable protein analogues or substitutes for standard products, such as meat, fish or milk. Examples include: vegetable protein analogues, *fu* (a mixture of gluten (vegetable protein) and flour that is sold dried (baked) or raw, and is used as an ingredient, e.g., in miso soup), *paneer* (milk protein coagulated by the addition of citric acid from lemon or lime juice or of lactic acid from whey, that is strained into a solid mass, and is used in vegetarian versions of, e.g., hamburgers), proteinaceous meat and fish substitutes.

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<sup>11</sup> *Ibid.*, pp. 181-187.

**SECTION II : REVISION OF THE ANNEX TO TABLE 3 OF THE GSFA**

The Annex to Table 3 of the GSFA was revised by the 38<sup>th</sup> CCFAC (ALINORM 06/29/12, Appendix VIII) and adopted by the 27<sup>th</sup> CAC at Step 8 (ALINORM 06/29/41, Appendix IV). As a result of the proposal to revise the FCS of the GSFA (Section I, above), the Annex to Table 3 of the GSFA should be revised to reflect the newly proposed title of food category 04.2.2.7. This revision is shown below, with deletions in ~~strike~~through text, and amendments in **bold** text.

**Annex to Table 3****Food Categories or Individual Food Items Excluded from the General Conditions of Table Three****Revised 38<sup>th</sup> CCFAC (ALINORM 06/29/12, App. VIII)**

The use of additives listed in Table Three in the following foods is governed by the provisions in Tables One and Two.

<u>Category Number</u>	<u>Food Category</u>
04.2.2.7	Fermented vegetable (including mushrooms and fungi, roots and tubers, pulses and legumes, and aloe vera), and seaweed products, excluding fermented soybean products of food <del>category 12.10</del> <b>categories 06.8.6, 06.8.7, 12.9.1 and 12.9.2</b>



**SECTION III: PROJECT DOCUMENT FOR THE REVISION OF THE FCS OF THE GSFA****Project Document – Proposal for New Work****Revision of the Food Category System (FCS) of the General Standard for Food Additives (GSFA; Codex STAN 192-1995)****1. The purpose and scope of the Standard**

The purpose of this work is to consider revision of the FCS of the GSFA (Codex Stan 192, Annex B) so that food categories that include soybean-based food products (06.8 (Soybean products (excluding soybean products of food category 12.9 and fermented soybean products of food category 12.10)), 12.9 (Protein products), and 12.10 (Fermented soybean products)) would be reassigned to more appropriately group types of soybean-based foods within the hierarchy of the FCS. The proposal would:

- (i) place all relevant soybean-based food products now included in food categories 12.9 into new food sub-categories under category 06.8;
- (ii) revise food category 12.9 and category 12.10 to account for the reassignment of some food categories under 06.8; and
- (iii) revise food category 12.10 to include certain products derived from protein sources other than soybeans.

The FCS is an essential component of the GSFA. Provisions for food additives in the GSFA are established based on information of their use in foods that are included in the different food categories. Correct arrangement of the food categories is essential for appropriate interpretation of the GSFA.

**2. Relevance and timeliness**

The proposed revision of the FCS will improve the clarity, transparency, and accuracy of the GSFA. Currently, food categories that include soybean-based foods are included in three food categories that do not accurately reflect the grouping of these types of products within the hierarchy of the FCS. The proposed revision would correct these inconsistencies.

The proposal to revise the FCS (Codex Stan 192, Annex B) would also require:

- (i) the modification of the provisions in Tables 1 and 2 of the GSFA to reflect the reassignment of the food categories; and
- (ii) revision of the food category titles in the Annex to Table 3 of the GSFA.

A minimum of one year and a maximum of two years would be required for the proposed revisions to the FCS to be circulated, commented on, and agreed upon, and for the consequential editorial changes to the Annex to Table 3 of the GSFA. The revision of the provisions of Tables 1 and 2 of the GSFA, which would fully implement the revised FCS, would require an additional year.

**3. The main aspects to be covered**

As a result of the decision of the 38<sup>th</sup> CCFAC (ALINORM 06/29/12, para. 215), the GSFA (Codex Stan 192) would be revised as follows:

- (i) the FCS would be revised according to the proposal (Annex B of the GSFA);
- (ii) provisions in Tables 1 and 2 of the GSFA in the affected food categories (06.8, 12.9, and 12.10) would be reassigned according to the proposal; and
- (iii) consequential editorial changes to the Annex to Table 3 of the GSFA would be implemented for consistency with the proposal.

**4. Assessment against *Criteria for Establishment of Work Priorities* (Procedural Manual, 15<sup>th</sup> Ed., p. 67 – 68)**

The proposal will contribute to:

- Consumer protection from the point of view of health, food safety, ensuring fair practices in the food trade and taking into account the identified needs of developing countries.

- Diversification of national legislations and apparent resultant or potential impediments to international trade.
- Scope of work and establishment of priorities between the various sections of the work.

Soybean-based foods are a staple food in many countries. The FCS is an integral part of the GSFA. It is anticipated that the proposal will improve the accuracy and transparency of the FCS, and will better reflect food additive use in soybean-based foods. This will improve consumer protection and ensure fair practice in food trade.

#### **5. Relevance to Codex strategic objectives**

The proposal is consistent with the *Strategic Vision Statement* of the Draft Strategic Framework of the Draft Medium Term Plan 2003 – 2007 (ALINORM 01/04, Appendix II), and of the Draft Strategic Plan 2008 – 2013 (ALINORM 06/29/3A, Appendix II, and ALINORM 06/29/41, paras. 152 – 155) that will be forwarded to the Commission for final adoption in July 2007. The proposal is based on scientific considerations and contributes to the safety of human health and to fair practices in food trade.

#### **6. Information on the relation between the proposal and other existing Codex documents**

The FCS is an integral part of the GSFA (Codex STAN 192-1995).

#### **7. Identification of any requirement for and availability of expert scientific advice**

Requirement of input from expert scientific bodies is not anticipated.

#### **8. Identification of any need for technical input to the standard from external bodies**

There is no need for any input from external bodies. Codex Members and observers have the necessary technical expertise to elaborate these revisions to the GSFA's food category system.

#### **9. The proposed time-line for completion of the new work, including the start date, the proposed date for adoption at Step 5, and the proposed date for adoption by the Commission**

Assuming that the Commission approves this proposal for new work in 2007, the work could begin in 2008. It is proposed that the revised FCS could be adopted at Step 5 as early as that same year (2008) or at the following session (2009). Adoption of the revised FCS at Step 8 could therefore be as early as 2008 (accelerated procedure), but probably no later than 2010.

The adoption of the consequential editorial changes to the Annex to Table 3 of the GSFA would occur concurrently with the adoption of the revision to the FCS. The implementation of the proposal in Tables 1 and 2 of the GSFA would therefore occur as early as 2009, but probably no later than 2011.