

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD  
HEALTH  
ORGANIZATION



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Agenda Item 2(a)

## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION

#### *Sixty-first Session*

*WHO Headquarters, Geneva, 24 – 27 June 2008*

### **FOLLOW UP TO THE STATEMENT MADE BY FAO AND WHO AT THE 60<sup>TH</sup> SESSION OF THE EXECUTIVE COMMITTEE**

**Prepared by FAO, WHO and the Codex Secretariat**

#### *Background*

1. The Representative of FAO informed the 60<sup>th</sup> Session of the Executive Committee that as a result of the views expressed by member countries in the governing bodies of FAO and WHO and of management consultations, FAO and WHO had agreed on a joint statement<sup>1</sup>. The Representative pointed out that Codex was going through a period of change and that Member States of FAO and WHO continued to express their wish for improvements in the way the two organisations operated, including in Codex, and especially in the following areas:

- a) more speed in the development and adoption of Codex texts
- b) fewer Committees and fewer meetings
- c) improved efficiency, including through the use of electronic means of communication
- d) more emphasis on health related issues
- e) support for the Global Strategy on Diet, Physical Activity and Health
- f) shorter reports of Codex sessions
- g) new meeting forms using modern communication technology
- h) establishment of a duration for the terms for hosting Codex Committees
- i) clearer rules to help chairs manage meetings.

2. The Representative emphasised that FAO and WHO intended to provide strategic guidance to Codex, while recognizing its mandate and respecting its autonomous nature, and expected that the Executive Committee would carry out management discussions in order to proceed with the improvement of the Codex process. The Representative expressed concern with the reluctance to introduce the necessary changes that appeared in the discussion on some of the areas concerned and expressed the hope that FAO and WHO

<sup>1</sup> Distributed at the 60<sup>th</sup> Session of the Committee as Conference Room Document 8 (CRD 8).

would be able to report to their governing bodies about a positive outcome regarding the improvement of the Codex process.

3. The Representative of WHO stressed the need to carry out the required changes in order to ensure improvement in Codex and to set aside the arguments that prevented progress, especially as regards shorter session reports and the smaller number of committees, and also emphasized the priority of health and safety issues over work on commodity standards.

4. After some discussion, the Committee agreed that further discussion was necessary in order to consider these proposals in detail and that FAO and WHO in cooperation with the Secretariat would provide a more detailed document providing management guidance to the Executive Committee in the areas identified by FAO and WHO, including proposals for concrete action, for consideration by the next session of the Executive Committee.<sup>2</sup>

### ***Issues for Discussion***

5. Among the issues raised by the representatives of FAO and WHO at the 60<sup>th</sup> Session of the Executive Committee, several issues have already been addressed by the Commission or are under ongoing discussion including the present session of the Committee. This is the case for:

- more speed in the development and adoption of Codex texts (being implemented through annual meetings of the Commission and adopted enhancement to the Elaboration Procedure - see ALINORM 08/31/9C Part I)
- fewer Committees and fewer meetings (see ALINORM 07/30/REP paras 146-150 and ALINORM 08/31/9C Part II)
- improved efficiency, including use of electronic means of communication (see CAC/31 INF/8)
- support for the Global Strategy on Diet, Physical Activity and Health (see ALINORM 07/30/REP paras 181-188, ALINORM 08/31/26 paras 134-140 and 170-178 and ALINORM 08/31/22 paras 18-46)
- shorter reports of Codex sessions (see CX/EXEC 08/61/3, to be considered under Agenda Item 2(b))

6. This paper thus focuses on the following, remaining issues:

- more emphasis on health related issues
- new meeting forms using modern communication technology
- establishment of a duration for the terms for hosting Codex Committees
- clearer rules to help chairs manage meetings

### ***More Emphasis on Health Related Issues***

7. The work of the Codex Alimentarius Commission is guided by the Strategic Plan 2008-2013 adopted at its 30<sup>th</sup> Session and the Plan recognises, in its strategic vision statement, the primordial importance of consumer protection including food safety and quality. It is also recalled that the Commission, at its 26<sup>th</sup> Session, decided that the current Codex Mandate, as expressed in Article 1 of the Statutes of the Commission, should be retained but that it might be discussed in the future.<sup>3</sup>

8. As regards the way specific proposals for new work to be undertaken by the Commission are handled, the current Elaboration Procedure requires that a project document be prepared and be considered by the Executive Committee in the framework of the Critical Review in the light of the *Criteria for the Establishment of Work Priorities* as well as the Strategic Plan, before final decision is taken by the Commission.

9. In regard to the subsidiary bodies of the Commission, there are presently six general subject committees dealing primarily with health related issues (food additives, food contaminants, food hygiene, pesticide residues, residues of veterinary drugs, and nutrition and foods for special dietary uses) that are meeting regularly. Three other general subject committees (food labelling, methods of analysis and sampling,

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<sup>2</sup> ALINORM 08/31/3 paras 88-96

<sup>3</sup> ALINORM 03/41 para. 170

and import and export inspection and certification systems) also directly or indirectly deal with health related issues. Besides, the Committees on Natural Mineral Waters, on Meath Hygiene and on Fish and Fishery Products as well as three task forces on animal feeding, on foods derived from biotechnology and on antimicrobial resistance have exclusively worked on health related issues while another task force and a committee have worked both on food safety and quality aspects of quick frozen foods and of fish and fishery products.

10. The current arrangements therefore seem to provide an ample framework to allow the Commission to give to health related issues due consideration and priority they deserve within the work programme of the Commission.<sup>4</sup>

11. In this connection, it is recalled that the 30<sup>th</sup> Session of the Commission agreed to set an indicative upper limit to the numbers of Codex sessions planned for in one year/one biennium and of active subsidiary bodies that could co-exist.<sup>5</sup> In order to put this into practice, the Commission is strongly encouraged to consider reducing or phasing out certain activities before starting standards-setting activities in new areas, in addition to exercising stringent priority-setting among new work proposals within the framework of the critical review.

### ***New Meeting Forms Using Modern Communication Technology***

12. The Guidelines on Electronic Working Groups, adopted at the 28<sup>th</sup> Session of the Commission, state<sup>6</sup>:

*Special efforts are needed to enhance the participation of developing countries in Codex Committees, by increased use of written communications, especially through remote participation via email, internet and other modern technologies, in the work done between sessions of Committees.*

*Codex Committees, when deciding to undertake work between sessions, should give the first priority to considering the establishment of electronic working groups.*

13. During the elaboration of these guidelines, the 19<sup>th</sup> Session of the Committee on General Principles noted that electronic working groups normally operated by exchanging electronic mail, usually for the preparation of specific draft documents, but that in the future the use of more sophisticated Internet-based software could be considered.

14. The most advanced meeting form using modern communication technology available to date is considered to be video teleconference using web cameras. Web-camera mediated meetings are increasingly used, including in FAO and WHO, but only for internal meetings involving a limited number of participants located outside the main meeting premises. While this technology enables significant savings on the travel cost, it poses a number of technical and other challenges when applied to Codex intergovernmental meetings in which twenty to eighty delegations usually are present:

- Time difference between different geographic locations (some delegations would have to participate very late in the evening or early in the morning according to local time);
- Lack of reliability and sufficient band-width of Internet connections for video and multiple audio channels in a large number of developing countries; while the situation is likely to evolve, these limitations would have the practical effect of excluding delegations from those countries to participate in meetings, thus exacerbating difficulties in ensuring effective participation of such countries in Codex work ;
- Difficulty for the chairperson to recognise requests for the floor and to assess, at a given point of time, whether there is agreement among participants on the issue at hand; more generally, the procedural framework governing the conduct of proceedings might need major adjustments in order to be able to regulate tele-conferences and
- No informal consultation possible over “coffee break” or in other *ad hoc* settings.

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<sup>4</sup> See also the secretariat report to the 61<sup>st</sup> Health Assembly on the follow up on the resolution WHA58.32.

<sup>5</sup> ALINORM 07/30/REP paras 146-150

<sup>6</sup> Codex Procedural Manual, 17<sup>th</sup> Edition, Section II

15. In light of the above, it is considered premature to adopt teleconference for the purpose of Codex intergovernmental meetings including working groups. For the time being, the use of email in the electronic working groups would seem to remain the most effective means of communication.

#### *Establishment of a Duration for the Terms for Hosting Codex Committees*

16. This matter has never been discussed in detail within the Commission. From a procedural point of view, all host governments of the subsidiary bodies established under Rule XI.1(b) are designated at each session by the Commission and are eligible for re-resignation (Rule XI.10). Given that the Commission is meeting annually since 2003, the duration of term actually corresponds to the period of one year. The practice customarily followed in the Commission is that host governments are usually re-designated unless they have expressed lack of interest to continue to serve as host governments, while it is open to any other government to express its willingness to take over a subsidiary body regardless of the wish of its incumbent host government.

17. When more than one government wishes to host the same subsidiary body established under Rule XI.1(b), one host country is elected through a vote by secret ballot, in accordance with the General Rules of FAO. In recent times, voting was organised to designate a host government for the Committees on Milk and Milk Products (1993), on Contaminants in Foods (2006) and on Fats and Oils (2007).

18. In order to introduce a limit on the duration for hosting a subsidiary body, either in terms of the number of years or successive terms of designation, amendments to Rule XI.10 of the Commission's Rules of Procedure would be necessary. If the Commission so decides, a proposed amendment could be drafted by the Legal Offices of FAO and WHO, in cooperation with the Codex Secretariat, for consideration by the Committee on General Principles. However, consideration should be given to the following aspects before the Executive Committee and the Commission decide to proceed with this matter further.

- Hosting an active subsidiary body requires a long-term commitment to Codex and its activities. It requires mobilisation, on a sustainable basis, of a significant amount of resources within the host government (e.g. costs for meetings facilities, interpretation, translation and documentation; staff time for chairperson and national secretariat including technical and scientific staff). The possibility is not excluded that no country volunteers to take over a committee after the limit of duration has been reached by one host government. In this case, ongoing tasks assigned to that subsidiary body would be halted until a new host government is identified.
- Newly designated host governments often require, after official designation by the Commission, a period of internal preparation (including for ascertaining budgetary resources from a finance ministry and completing other internal administrative procedures) of up to one year, before being ready to organise a committee meeting. Unless special care is taken to enable smooth transition, the work undertaken by a committee which is meeting annually may be disrupted each time its host government changes. This may result in slower progress in standards development.
- A possible new Rule putting a limit on the duration to the service of host governments is unlikely to be made effective retroactively. This would mean that after a certain number of years have passed following the entry into force of the new Rule, the host governments of all subsidiary bodies established under Rule XI.1(b) (with the exception of task forces and regional coordinating committees) – currently 21 committees – would reach at the end of their final term, at the same time. Such situation may be disruptive to the smooth conduct of business of the Commission. In order to obviate these inconveniences, there would be a need to make provision for staggered renewals of terms for hosting Codex Committees. Given the large number of subsidiary bodies covered by Rule XI.10, such provisions would necessarily be of an extremely complex nature and the question arises as to whether it would be at all possible to formulate any such provisions and whether there would be the necessary measure of agreement among Codex members for an amendment to this Rule. If a staggered turn-over of host governments were to be devised eventually, a certain number of handovers of host governments would yet need to take place at each session of the Commission. As some of these designations may require voting by secret ballot, the Commission might need to hold a longer session, to allow for such additional elections.

19. In view of the above considerations, an effective and perhaps more realistic means of ensuring a measure of rotation among Members that, under Rule XI.10, are responsible for appointing Chairpersons of Codex Committees, might be through enhanced consultation among Codex Members keeping in mind the desirability of achieving some rotation among those Members, rather than through radical measures such as

the imposition of strict term limits involving the amendment of the Rules of Procedure. An emerging practice whereby, under the existing legal framework, meetings are held outside the territory of the Member which appoints the Chairperson, usually in a developing country, contributes to avoiding the geographic concentration of Codex meetings and should be explored further. A review of the limited experience acquired in implementing this solution in respect of some Codex Committees could perhaps be carried out in order to identify advantages and disadvantages associated with this practice and to determine the extent to which it could be improved and extended to other Committees. Preliminary analyses of the issue of the establishment of a limit for the terms for hosting Codex Committees suggests that prior to considering amendments to Rule XI.10 it might be useful to see how the system could be improved under the existing framework.

### ***Clearer Rules to Help Chairs Manage Meetings***

20. The matter can be approached from two angles, in terms of (i) general rules to handle proceedings of a meeting and (ii) determination of consensus or related issues.

21. Rule VIII.7 of the Rules of Procedure states as follows:

*The provisions of Rule XII of the General Rules of FAO shall apply mutatis mutandis to all matters which are not specifically dealt with under Rule VIII of the present Rules.*

22. In addition, the Guidelines for Codex Committees and *Ad Hoc* Intergovernmental Task Forces<sup>7</sup> state as follows:

*The Rules of Procedure of the Commission shall apply, mutatis mutandis, to Codex Committees, Coordinating Committees and Ad Hoc Intergovernmental Task Forces.*

These guidelines also include guidance on the conduct of meetings and on consensus.

23. Furthermore, the Guidelines on Physical Working Groups and on Electronic Working Groups provide that the Rules of Procedure and the guidelines governing the work of a Codex Committee shall apply, *mutatis mutandis*, to the working groups unless stated otherwise in these guidelines.

24. In order to ensure that these rules are complied with at all levels of the Codex structure including working groups, the Chairperson and the Secretary of the Commission sent a letter, on 10 December 2007, to all chairpersons of Codex committees and task forces to ensure that all applicable rules are closely observed including in working groups.

25. As a matter of principle, the Codex Secretariat carries primarily responsibilities to advise the chairpersons on all procedural matters. The Codex Secretariat is present in all sessions of the Commission and its subsidiary bodies. Due to budgetary and staff constraints, however, the Codex Secretariat is unable to participate in all working group meetings. Where not physically present in these meetings, the Codex Secretariat is willing to assist the chairperson of working groups, by phone calls or other means, whenever necessary.

26. Furthermore, the 60<sup>th</sup> Session of the Executive Committee agreed that Rule XII of the General Rules of FAO and/or the FAO Guide on Conduct of Plenary Meetings should be made available to all Codex Members and Observers through the Codex e-mail distribution lists and that a relevant link to the FAO ftp server would be included in the Codex website to enable download.<sup>8</sup> This recommendation has been followed up on and has been implemented by the Secretariat.

27. The Executive Committee, at the same session, noted that the Legal Office of FAO, in cooperation with the Codex Secretariat and the Legal Office of WHO, would explore possibilities to address the concerns expressed and accommodate any further needs identified by the Commission.

28. As regards the matters specifically relating to the concept of consensus and its practical application, the 30<sup>th</sup> Session of the Commission decided that the issue be discussed at the forthcoming session of the Committee on General Principles.<sup>9</sup>

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<sup>7</sup> Codex Procedural Manual, 17<sup>th</sup> Edition, Section II

<sup>8</sup> ALINORM 08/31/3 para. 117

<sup>9</sup> ALINORM 07/30/REP paras 198-200

***Conclusion***

29. The Executive Committee is invited to express its view on the matters described above and provide its guidance as appropriate.