



**JOINT FAO/WHO FOOD STANDARDS PROGRAMME**  
**EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION**

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**SUBCOMMITTEE OF THE EXECUTIVE COMMITTEE ON THE IMPLEMENTATION OF THE STATEMENTS  
OF PRINCIPLE CONCERNING THE ROLE OF SCIENCE**

*(Prepared by Ecuador, Costa Rica, Uruguay, Brazil, Trinidad and Tobago and Panamá)*

The countries of Latin America and the Caribbean: Ecuador, Costa Rica, Uruguay, Brazil, Trinidad and Tobago and Panamá thank the Presidency of Codex Alimentarius for the preparation of document CX/EXEC 22/82/3: Subcommittee of the Executive Committee on the application of Declarations of principles referring to the role played by science and the work carried out jointly for its development.

The objective of this document is to present a counterproposal made by the countries of the aforementioned region on the Diagram and framework for the use of Declarations in different situations published in Appendix 2 of the previously mentioned document.

It is necessary to mention that the proposal was already exposed in the work carried out jointly with the secretariat and the regional coordinators. The same was published on the Forum website in the document: "2nd CCEXEC Subcommittee on SoP- communication from chair"

The reasons for this proposal are presented below:

1. The starting point for any decision in Codex must be supported by what is established in the Procedural Manual; In this sense, it is important to consider that *"Food standards, guidelines and other recommendations of the Codex Alimentarius shall be based on the principle of sound scientific data and analysis, including a thorough review of all relevant information, so that the standards ensure the quality and safety of food supplies .Food standards, guidelines and other recommendations of the Codex Alimentarius shall be based on the principle of sound scientific data and analysis, including a thorough review of all relevant information, so that the standards ensure the quality and safety of food supplies."*

That is why the signatory countries consider that the flowchart should include the entire process, allow visualizing what role this issue plays within a broader process and should not be limited only to the treatment of other factors. Based on the foregoing, the counterproposal that presents a first difference in the starting point, which starts from the scientific data related to food safety and quality, as established in the first numeral of Decision N° 21/95, is justified:

2. The counterproposal makes it possible to clearly visualize that the scientific risk assessment "is a preliminary stage" and is independent of the consideration of other factors, as illustrated by the second block of the flowchart and provided in paragraph c of Decision 24/01:

*"Examination of other factors should not affect the scientific basis of the risk analysis; in this process the separation between risk assessment and risk management must be respected with a view to ensuring the scientific integrity of the risk assessment."*

3. The flowcharts coincide in the decision block with respect to other factors. While the original block speaks of other factors "relevant to the Codex", it is understood that it is much clearer to indicate specifically what are the criteria based on which said factors can be considered legitimate, as provided in number 2 of the Decision N° 21/95:

*"In developing and taking decisions on food standards, the Codex Alimentarius shall take into account, where appropriate, other legitimate factors relevant to the protection of consumer health and the promotion of fair practices in the food trade."*

4. From here, “Are the other factors raised by the relevant members for Codex” substantial differences between the original flowchart and the proposed flowchart are raised. In the original flowchart two options are raised, whether or not the factors raised meet the requirements to be relevant to Codex. In the event that the requirements are not met, the original flowchart opens a variety of options, when in the proposed flowchart two successive blocks of decision are proposed that must be overcome so that the factors proposed continue to be considered:

- That the proposed factors fit into the aforementioned categories, contained in the first numeral of the Decision N° 21/95.
- That the inclusion is duly substantiated.

5. In relation to this second requirement, we rely on the provisions of paragraph e of Decision 24/01 (in the proposed flowchart, to simplify, we have only considered the case of global acceptance):

*“Within the Codex framework, only the other factors that can be accepted at the global level, or at the regional level when it comes to regional standards and related texts.”*

6. Once these two requirements have been met (legitimacy and substantiation), the other factors are incorporated into risk management, together with the results of the risk assessment, as provided in paragraph b of the Decision 24/01:

*“Other relevant legitimate health and fair-trade factors may be determined in the risk management process, and risk managers should indicate how this influences the selection of risk management options and the development of standards, guidelines and related texts.”*

7. In the risk management process, a decision block is proposed, linked to the existence or not of discrepancies with the elaborated standard, as provided in the fourth numeral of the Decision 21/95:

*“If the situation arises where Codex members agree on the degree of public health protection that is needed, but have different opinions over other aspects, the members may refrain from accepting the standard in question, without this necessarily preventing Codex from making its decision.”*

8. Here it is important to highlight, as reflected in the proposed flowchart, that the reasons why a member chooses to abstain are not directly related to the other factors considered, that is, the "other legitimate factors" of numeral 2 of the Decision 21/95 are not the same as the "other aspects" other than the degree of health protection referred to in numeral 4 of Decision 21/95. The provision raises a much broader spectrum of possibilities by referring to “different opinions on other aspects” other than the degree of protection.

#### Some comments regarding the proposed flowchart

9. In these lines, the proposed flowchart in which the first and second decision blocks are answered affirmatively, it ends with a block that indicates "The other factors are considered when deciding on the risk management options (including labeling) with full documentation. The flowchart ends here. This sequence is coincident with an equivalent sequence presented in the original flowchart. The difference is that in the counterproposal of the flowchart, risk management is continued, and then, with the handling of discrepancies. In the original flowchart, risk management is handled in another branch, but not in this one.

10. In the case of a negative response in the first decision block of the original flowchart, a multiplicity of options are opened, while in the counterproposal of the flowchart the decision is to reject the consideration of these factors. In the original flowchart a negative answer regarding the legitimacy of the factors or global acceptance leads to the evaluation of whether the requirements for a reservation are met, when we have already seen that reservations are a separate issue.

11. What is most serious is a multiplicity of options that are opened later that are not contemplated in the current Codex standards, especially the options that are opened when a member disagrees with the standard in development, but does not want to resort to reservations. The regulations are clear and are reflected in the flowchart counterproposal, in which case the regulation must be approved.

12. In the original flowchart a multiplicity of options are presented.

The first coincides with the one that appears in the proposed flowchart, but not the rest, namely:

- *Propose more time for discussion and keep the text pending for future consultation.* This option is obviously inconvenient, proposing a kind of veto power for dissenting members in the form of freezing the issue.
- *Seek advice from the Executive Committee.* The fact that these situations have occurred does not legitimize them. The regulations must seek to contemplate all possible scenarios and introducing these

options explicitly is only justified when the background shows that there have been cases that were not properly contemplated in the regulations, which has not happened.

- *Propose to keep the standard at Step 3 pending review of new information.* It is the same as the first case, veto by freezing.
- *Note that there is agreement on the scientific basis for the standard and explore alternative options such as guidelines.* It is another way by which dissenting members veto the approval of substantive regulations.
- *Propose the discontinuation of the works.* This is the option that most clearly illustrates the introduction of the right to veto.

13. See counter flowchart proposal in the Annex 1.

