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codex alimentarius commission



FOOD AND AGRICULTURE
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Agenda Item 12 (b)

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX ALIMENTARIUS COMMISSION

Twenty-eighth Session

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IMPLEMENTATION OF THE JOINT FAO/WHO EVALUATION OF THE CODEX ALIMENTARIUS AND OTHER FAO AND WHO WORK ON FOOD STANDARDS

REVIEW OF THE CODEX COMMITTEE STRUCTURE AND MANDATES OF CODEX COMMITTEES AND TASK FORCES

**Comments from: Australia, European Community, Japan, New Zealand, Consumers International,
49th Parallel Biotechnology Consortium, International Council of Beverages Associations,
International Dairy Federation, International Federation of Environmental Health, International
Federation of Fruit Juice Producers and the World Organization for Animal Health**

Background

1. As a follow up to the Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO Work on Food Standards conducted in 2002 and to the ongoing implementation of its recommendations by Codex, a team of consultants was recruited to conduct a review of the Codex Committee Structure and Mandates of Codex Committees and Task Forces in September 2004. The review was to be conducted with a view to formulating recommendations for consideration by the Commission. The consultants prepared a preliminary report, which was presented to the Executive Committee at the 55th Session (9-11 February 2005).¹

2. The 55th Session of the Executive Committee considered the preliminary report and made a number of observations. The Committee noted that on the basis of the guidance provided by the Committee a Final Report would be prepared and be sent as a Circular Letter (CL) to all Codex Members and Observers for comments. The recommendations in the Final Report, in the light of the comments received, would be considered by the 56th Session of the Executive Committee and by the 28th Session of the Commission. To bring necessary changes to the relevant sections of the Procedural Manual, including the Terms of Reference of subsidiary bodies, the

¹ CX/EXEC 05/55/2 Part III

Commission would then invite the 23rd Session of the Committee on General Principles (April 2006) to formulate concrete proposals for revision of the provisions in the Procedural Manual. The Executive Committee further noted that those amendments to the Procedural Manual with no budgetary implications could be implemented once they were approved by the Commission, while other amendments which require budgetary provisions to be made would not be implemented before the 2008-2009 biennium.²

3. The final report by the consultants was circulated in March 2005 as CL 2005/12-CAC, and governments and international organizations were invited to submit their comments on the options for change contained in the Final Report of the consultants, in particular on the recommendations in Section 13 of the Report.

Action Required

4. On the basis of the comments received (see below), the Commission is **invited** to provide guidance necessary to proceed with the review of the Codex Committee structure and mandates of Codex Committees and Task Forces.

Comments Received

AUSTRALIA

Australia welcomes the timeliness of the review of the Codex Committee Structure and Mandates of the Codex Committees and Task Forces. Australia considers that in order for Codex to maintain its standing as the pre-eminent international food standards setting body, it must continue to strive to improve its management and functions in the ever changing global environment in which it must operate. We note that the report of the consultants is in line with Recommendation 16 of the Evaluation of the Codex Alimentarius and other FAO and WHO Food Standards Work and the Terms of Reference for the Review have been met.

Australia would like to reiterate its position with respect to the management and operations of Codex and its subsidiary bodies that the primary focus of their work must be the protection of consumers' health through the development of science-based international standards, recommendations and guidelines, whilst taking into consideration the effects these outputs may have on international trade.

Before addressing specific comments to each of the recommendations, Australia would offer the following general comments.

The Consultants should be congratulated on providing a comprehensive report. However, it is Australia's view that the report lacks detail in terms of proposals or options for implementation of its recommendations. We acknowledge that the Secretariat works with limited resources. This is, in fact, reflective of the operating environment for many government agencies.

The Consultants have pointed to the effectiveness of Codex task forces and the need to adopt this structure more widely within Codex. Australia agrees that task forces in general, and in particular the Task Force on Foods Derived from Biotechnology (1999-2003), have achieved their objectives in a timely manner. However, this exemplary success should be seen in the context of the intense commitment and high demand on resources that was required (including two meetings per year in two of the four years and three WHO expert consultations). This level of intensity can not be reasonably expected or sustained on a wider scale of Codex work.

In approaching the implementation of the recommendations of the review, we would propose that the Executive Committee, together with the Secretariat, be tasked with developing an implementation plan. In our view, implementation of the recommendations relating to the commodity committees should be dealt with as quickly as possible. These committees take up considerable resources for a disproportionate return.

In dealing with implementation of the recommendations relating to the general subject committees, this could be assigned to an electronic or physical working group of the Chairs of the various committees.

Attached is Australia's response to each of the recommendations.

1. A formal prioritization should be undertaken of all new work proposals, before resources are allocated.

² ALINORM 05/28/3 paras 16 – 30

Australia considers that this is a key recommendation. It is important that all new work proposals are subjected to strict assessment and prioritisation. However, this recommendation should not be limited to new work but should also apply to the current work programs of all the committees. In doing so, the Chair of each committee should be asked to provide to the Executive Committee (under its standards management function) with a detailed report on each item currently on its Agenda (including those issues still at the discussion phase). The report should include:

- A detailed explanation of why the item is on the Agenda (including whether it is of interest to a significant number of members), including an assessment against the *Criteria for Establishing Work Priorities*;
- What the expected outcome is i.e. standard, guideline, recommendation or Code of Practice;
- When the work is expected to be completed, if new work has not been approved by the Commission. If the issue has been at the discussion phase for some time, then a detailed explanation of the contentious issues and the measures that have been taken to achieve consensus should be included;
- How the work is being conducted i.e. the use of physical/electronic working groups.

The Executive Committee should then make firm recommendations to the Commission as to whether or not the work should continue. The Commission must then take the decision in accordance with the Executive Committees recommendation.

Too often, the Commission fails to discontinue work against the recommendations of Committees. For example, CCFL has tried to discontinue work on country of origin labelling but the Commission has reversed the decision. The Chair of the Commission should remind the members that the Committee (which has the expertise in this area) has already come to a conclusion and the Commission should respect that and endorse it. An important issue that should not be lost in this discussion is the issue of transparency. The Chair of each committee must ensure that work priorities are identified and agreed (according to the criteria in the Procedural Manual) in a consultative and transparent manner.

2. Steps should be taken to increase the proportion of work done by correspondence.

Australia does not entirely agree with the statements made by the consultants in this instance. It is our view that much of the work in drafting initial documents is already done by electronic means (correspondence). For example, when a member intends to propose new work in certain area, it is the member who drafts the initial discussion paper outlining the new work required, including the Project Document. The Committee then determines, based on the Discussion Paper and the Project Document whether the new work is warranted. The Committee then sets up a working group (physical or electronic), which is then responsible for drafting the new standard (subject to the approval of new work) for consideration by the Committee at its next session (generally at Step 3).

With respect to developing countries and the use of more electronic working groups, during discussion at CCGP (2005), a number of developing countries indicated that they prefer to work in physical meetings rather than electronic as they have ongoing problems with access to the internet. On the other hand many preferred electronic means as they had difficulty in accessing funds to attend face-to-face meetings. The problem of translation of documents is also of concern to many developing countries, whereas in physical working group meetings, the services of interpreters are more likely to be available.

Another issue which needs to be addressed is recognition of the need for the leader of the working group to take into account written comments. Often in electronic working groups, members' written comments are not taken on board. Also developing countries often have more success in having their views heard at physical meetings as they are more able to articulate their views in this way.

The process for taking into consideration written comments, particularly at meetings where the country may not be present, is one that many committees grapple with. The Chairs of Committees, if it is formalised, could be tasked with developing guidelines for a process to ensure inclusiveness and transparency in this regard. Greater attention perhaps could also be paid to this process in the reports of meetings.

It should be noted that the level of accountability and contribution to an electronic working group is often lower than in physical meetings, with the group leader often left to progress (or not) the work on their own. It is also more difficult to resolve conflicting opinions and positions impeding work progress. Finally, the electronic and physical nature of working groups should not be mutually exclusive, but rather should be dictated by the stage of the work and needs of the group.

We believe that the success of work by correspondence is largely dependent on the nature of the work itself – being mostly suitable for small working groups dealing with less complex issues.

3. A time limit should be set for completion of each new project.

Australia considers that this has already been addressed in that the Project Document states “the time frame for developing a standard should not normally exceed five years”. The major reasons for extending beyond 5 years would be: lack of scientific data; failure to reach consensus. If either of these were the case, then work should be suspended/discontinued. The Project Document also contains a requirement to indicate the start date; the proposed date for adoption at Step 5; and the proposed date for adoption by the Commission. To make this system more visible, the information relating to the timeline for the work to be progressed should be included in each document, perhaps as a footnote or a summary as part of the background. As part of its Standards Management function, the Executive Committee is required to review all work in progress and should seek reports from the Chairs of the Committees (see comments under Recommendation 1).

4. Wherever possible, committees should be given enabling TOR only. They should be reactivated as necessary to undertake defined tasks and adjourned *sine die* once that task is completed.

Australia is of the view that as the roles of a number of the committees have evolved since their inception, a review of their TORs is now warranted. This could be done by the Committee itself with reports submitted to the Commission through the Executive Committee. The review should take into consideration current and future work and focus firstly on those issues related to health and safety.

The idea proposed by the consultants to restructure the committees so they function like taskforces (with limited time and tasks) should be considered very carefully. In our view, this option may be suitable for some, but not all, issues or committees. It is difficult to imagine that there will not be a continued need in the foreseeable future for dedicated committees (including forward looking programs and regular meetings) to deal with food contaminants and with food hygiene. Perhaps one way of achieving this is to tailor the life span of each taskforce to the nature of its work; for example 10 years each for hygiene and contaminants and 5 years for other committees with a mandatory review of the work program half way through that period. We also caution that a limited timeline may be a deterrent from undertaking work on complex issues as the possibility of completing the work within the time limit may be questionable.

5. Codex should review its remit to ensure that it conforms more closely to the current expectations of its members, having particular regard to the implications of the WTO agreements.

It is our understanding that Codex itself cannot enter into formal agreements with other international organizations, only the parent bodies can do this. In terms of suggesting that Codex review its remit, if this is referring to its mandate (the Statutes) then the issue was considered as part of the recommendations of the Evaluation of Codex (Recommendation 4) and the Commission decided that “the current Codex Mandate, as expressed in Article 1 of the Statutes of the Codex Alimentarius Commission, should be retained but that it might be discussed in the future³.” As this was only two years ago, it would seem premature for Codex to review this contentious issue so soon.

We do, however, support the view that Codex should give a higher priority to issues relating to health and safety as opposed to trade related issues. In any discussion of Codex mandate in relation to the WTO Agreements, it must be remembered that a number of developing countries are not WTO members and, as such, generally oppose any discussion of the relationship between WTO members obligations/rights and development of Codex standards.

6. The relevance of the work of other international standards setting bodies should be determined, and a clear statement of demarcation lines made clear to all participants.

See comments above under Recommendation 5. Australia considers that Codex and the parent bodies are actively working towards more cohesive relations with the other standards setting bodies (OIE, ISO etc). In fact the development of an MOU between OIE and the FAO and WHO is a positive step in this regard. Another positive step will be the adoption by the Commission of the *Draft Guidelines on Cooperation between the Codex Alimentarius Commission and International Intergovernmental Organizations in the Elaboration of Standards and Related Texts* expected in July 2005. The Director General of the OIE has established a permanent Working Group, with membership from the Codex Commission and Codex Committees to coordinate the food safety activities of the OIE which may overlap or have an impact on the work of Codex.

An ongoing issue concerns better collaboration at the national level by members and NGOs in regard to the work of all these organisations.

³ 26th CAC (July 2003), Alinorm 03/41, paragraph 170.

7. A regular meeting of the chairs of subsidiary bodies should be formally recognised in the Procedural Manual. The meetings may be informal, but a summary of the main points discussed should be made available to all Codex members.

Australia considers the informal meetings of the Chairs to be a valuable forum for exchange of information and views. If these meetings are to be formalised, then there must be formal procedures for who may attend/participate. Currently in the informal structure delegates from the Committee host country often sits in for the Chair. If the meetings were to be formalised, then this would be considered inappropriate (unless they only observed and did not participate in the discussion). There would also need to be consideration as to whether this mechanism included the Chairs of Regional Coordinating Committees.

8. Steps currently being taken to encourage collegial working within the Codex Secretariat should be encouraged.

Australia supports this recommendation, however, we would also suggest that it may be timely for a review of the functions of the secretariat to be undertaken, particularly in terms of the amount of work that they do in support of each committee. It is our understanding that there may be some inequalities in the resources provided by host countries. In order to cut down on the amount of duty travel undertaken by the Secretariat perhaps each host country should be required to provide one person to assist the Rome-based Secretariat in writing the report. This would allow the Codex Secretariat to send only one officer to each meeting. This would also result in some significant savings in travel expenditure and the preparatory work undertaken by the Secretariat.

9. Maximum use should be made of working groups, bilateral, or other low-level contacts between sessions to reduce the time needed to reach consensus in plenary meetings.

Australia strongly supports this recommendation. Australia has already moved towards this method of working between meetings (including the use of informal workshops on issues such as equivalence and traceability) which have been successful in resolving contentious issues before the plenary. Whilst these approaches have significant resource implications for the host government, in terms of CCFICS it has significantly increased the outputs of the committee in a positive way. Other committees (CCFAC, CCPR, CCRVDF, CCFH and CCFL) also use working groups immediately prior to the plenary sessions to facilitate the work of the committee.

10. All standard-setting work should be subject to a greater degree of management oversight. Specifically, a new Commodities Management Committee should be established to manage the preparation and updating of commodity standards.

Australia is of the view that there is essentially a need to review the work of the commodity committees as well as the mechanisms by which the work is proposed and carried out. In fact, the Evaluation of Codex in recommendation 16 clearly states that *“no new committee should be established even in a horizontal area of work until the possibilities for progress and the need for continuing work have been established through a task force”* which supports the need for reviewing current work plans of committees.

Increasingly, the work of commodity committees is in relation to prescriptive quality parameters which have the potential to become technical barriers to trade. In considering the need to develop commodity standards, priority must be given to the development of standards relating to health and safety whilst ensuring that standards are not developed that have the potential to restrict legitimate trade, whether this be through the horizontal committees or through time bound task forces needs further investigation.

Australia is of the view that whilst the proposal to establish a new Commodities Management Committee has the potential to eliminate a substantial amount of commodity committee work, and improve efficiency in the setting of commodity standards, we believe that there needs to be some form of transition arrangement to ensure that any proposed new arrangement realises these efficiencies.

Australia considers that one of the fundamental problems with the workloads of the commodity committees is the lack of substantial quantitative criteria to support requests for new work. For example the Milk and Milk Products Committee developed *Criteria for the elaboration or revocation of individual standards for cheese*. This use of these criteria puts the onus on the proposing country to substantiate the need for a standard – particularly where there is not a health or safety issue. The criteria includes provision to list manufacturing countries, countries where the product is consumed, countries regulating the product by a legal standard, production volume, export volume. Subsequently there is an assessment of justification based on the following criteria

(The information provided below is an example only)

	Criteria	Comments:	Conclusion:
Q1	Minimum 6 countries manufacture the cheese	Cheese in question is manufactured in at least 11 countries	Proceed to Q2
Q2	The global production volume is at least 10,000 tonnes	The volume of production of the 11 countries manufacturing cheese is estimated to total at least 64,000 tonnes	Proceed to Q3
Q3	The volume moving in international trade is at least 7 tonnes	The exports of the 11 countries manufacturing the cheese are estimated to total at least 11,000 tonnes	The establishment of a Codex standard is justified.

There needs to be a mechanism for evaluating the existing work programs of all commodity committees before transition to a new structure. Australia would propose that the following steps could be undertaken with a view to rationalising the work in the area of commodity standards setting.

1. As a first step, all work on commodity standards should be suspended.
2. The Commission establish a Working Group (with geographic regional representation) to develop quantitative criteria along similar lines to that developed by the CCMMP. This Working Group should be given 12 months to complete this task either through electronic means or physical meetings. The criteria would be presented (through the Codex Committee on General Principles April 2006) for adoption by the Commission in 2006.
3. Once the criteria have been endorsed, they be applied to each of the Committees existing work plans either by the Committee itself or by a Working Group (this will of course require substantial data collection on volumes of production etc). When the criteria are applied to the existing work a decision should be made to either continue the work or discontinue the work.
4. The Committee to forward the proposed forward work plan and justification to the Commission which would then endorse, as appropriate, and determine the mechanism to progress the work (i.e. through the Committee itself or a time bound task force).

This process could take up to 2 years. However, it has the potential to eliminate a large amount of potentially unnecessary work listed for development within Committees and, as such, would provide substantial efficiencies in the current standards management and approval of new work processes. A review of the current work programs of this kind, and the implementation of a system for proponent Committees to justify proposals for new work, would inform whether there is a longer term need to establish the Standards Management Committee system proposed by the consultants.

11. All commodity committees and task forces should be given simple enabling TOR which should be revised for a limited period only, to assign specific tasks to the committee.

See Australia's comments above. We are not in favour of establishing new mechanisms for this work until the review suggested above has been undertaken.

12. The circumstances in which the Executive Committee, or some other body, should carry out a similar management role for the other committees should be carefully considered by the Commission.

Australia supports a stronger management role by the Executive Committee and improved self-management by the horizontal committees. The role of the chair is particularly important in this respect as well as heightened awareness by members of the need to manage the work program effectively. Australia considers that the recent changes to the Executive Committee role should be evaluated before any additional changes are supported. Committees should be encouraged/directed to develop an action plan for the management of its work similar to that being progressed by the Codex Committee on Food Hygiene. Any plan should encompass the committees interaction with other committees, the expert bodies and how it sets its priorities.

13. All committees should be encouraged to adopt a more systematic approach to self-management.

Australia strongly supports this recommendation (see comments under recommendation 12).

14. CCFAC should be split into separate Additives and Contaminants committees.

Australia agrees that the workload of CCFAC is becoming increasingly unmanageable by the Codex Secretariat and splitting the Committee to deal with additives and contaminants separately would go a long way to remedy the situation. Australia strongly supports the proposal to split this committee. Any split will have to be followed

by a more formalised approach to JECFA's priority setting processes. For example, how JECFA prioritises requests coming from two committees as well as the CCRVDF.

15. The GSFA should be the single authoritative reference point for food additives and this should be made clear in all commodity standards.

Australia strongly supports this recommendation. If any review/change to the commodity committee structure is progressed, this would be key to ensuring consistency of approach in all commodity standards. Codex must make the completion of the electronic version of the GSFA a priority along with its availability on the internet.

16. All Codex requests for JECFA advice on additives and contaminants should be routed exclusively through the Additives or Contaminants committees

Australia strongly supports this recommendation. However, the recommendation fails to take into account the work done by JECFA in relation to evaluating veterinary drugs to assist the CCRVDF committee in its work. If CCFAAC is split into two committees (additives and contaminants) there needs to be an identified mechanism for JECFA to priorities the requests from 3 committees (i.e. Additives, Contaminants and Veterinary Drugs).

It should be recognised that JECFA's work in relation to evaluating the safety of veterinary drug residues to assist the CCRVDF committee involves a separate pool of expertise – one deals with food additives and contaminants and the other deals with residues of veterinary drugs. The two groups meet separately making JECFA, in effect, function as two separate expert committees. There may be an opportunity to re-consider the name of each of these two expert groups and align the name (s) with the group's role and expertise.

17. Consideration should be given to re-writing the TOR of CCMAS and re-assigning responsibility for specifying methods of analysis and sampling to the committee specifying the relevant limits.

Australia does not support this recommendation. In the interests of a harmonised approach by all Codex committees, Australia strongly supports the continued role of CCMAS in the endorsement of methods of analysis and sampling. The role of CCMAS is integral to supporting Codex technical standards and we believe this to be the most economically efficient approach for member countries to ensure technical rigour is applied and understood in the development of standards.

Australia is concerned about the re-assignment of responsibility for specifying methods of analysis and sampling to the commodity committee specifying the relevant limit, as the level of technical competence on these committees is: (i) limited either to the particular field pertinent to the commodity of relevance or (ii) to technical expert representation of the various committee.

It is clear from the current work of CCMAS that there are a number of developments within the analytical science community which impact on all Codex committees that deal with methods of analysis and ensure harmonisation across Codex committees.

CCMAS should, in fact, be given the role of specifying *and* endorsing the methods of analysis on behalf of the committee specifying the limits. Only in this way could Codex move to the performance-based approach already supported through the CCMAS criteria approach. This would help to ensure a higher level of performance of methods endorsed through the Codex process.

19. The Commission should consider carefully whether nutrition should play a role in Codex, and if so, what that role should be.

CCNFSDU is a hybrid in that its terms of reference permit horizontal activity, yet its whole-of-standards work is for foods for special dietary use. It is important to note that the standards for these special commodities do not solely rely on generic labelling requirements set by CCFL, but address specific labelling requirements in addition to dealing with compositional aspects. The Committee fulfils a number of roles – as risk manager and (sometimes as risk assessor, when FAO/WHO cannot assist in a timely fashion) and as a technical advisor to CCFL (not discussed by the consultants) on matters primarily in support of nutritional labelling eg definitions of dietary fibre and trans fatty acids, substantiation requirements for health claims, provision of nutrient reference values for labelling, and energy factors. The horizontal aspects of its work to date have been a minor component, with the *Guidelines on the Addition of Essential Nutrients to Foods* perhaps the best example of a horizontally focused document.

It seems that the Committee is at a cross roads with the consultants recommending two diametrically opposed courses of action for the Commission to decide, either that the Committee:

- is dissolved into a task force to develop and maintain standards for special dietary use and horizontal guidelines as required, while CCFL picks up all aspects of nutrition labelling; or

- broadens its current role to more actively incorporate nutritional goals into food standards setting.

The WHO *Global Strategy on Diet, Physical Activity and Health*⁴ identifies a role for the Codex Alimentarius in its implementation through the strengthening of international norms in the areas of; labelling to allow consumers to be better informed about the benefit and content of foods; measures to minimise the impact of marketing on unhealthy consumption patterns; fuller information about healthy consumption patterns. Whilst Codex has not considered these recommendations in full, it would appear that there may be a role for the technical experts involved in CCNFSDU in this regard.

If the parent bodies jointly decide that more attention needs to be paid to the nutritional aspects of foods and diet in food standards setting, then they will be obliged to recognise themselves in the role of risk assessors and the Codex Committee as the risk managers. In so doing, WHO/FAO must then make the decision as to whether they will support the establishment of a Joint Expert Committee on Nutrition, which could also take on the role currently played by CCNFSDU in providing technical nutritional support to CCFL, or operate on an as needed basis, similar to current operation.

19. CCMH should now be wound up. CCFH should consider possibility of drafting a set of general guidelines to help rationalise hygiene provisions in commodity standards.

Australia strongly supports this recommendation. In relation to consistency of provisions in the commodity standards, this is essential to ensure these standards are relevant to health and safety. We would like to congratulate New Zealand on its efforts to progress the work in this committee so quickly. We would strongly support the notion that any future work could be assigned to a time-limited task force.

20. Provision for the drafting of regional standards should be removed from the TOR of the Regional Coordinating Committees.

Australia strongly supports this recommendation. Regional standards are not helpful in terms of protecting the health of consumers but for trade (such issues could be negotiated bilaterally). If there is sufficient evidence that there is a need for a standard from a health and safety perspective, then it should be put forward as a new work proposal in the appropriate manner to the appropriate subsidiary body.

EUROPEAN COMMUNITY

General Comments

We would like to take this opportunity to forward a general comment on the schedule of the meetings of Codex Committees and Taskforces, which are currently mainly concentrated in a short period of 3 months in the spring time, where from March to May there are usually meetings going on every week. We understand that a lot of constraints apply on this schedule but would like to question whether an effort could be made to spread these meetings more evenly over the year.

Specific comments on the Recommendations of the Consultants' Final Report

1. A formal prioritization should be undertaken of all new work proposals, before resources are allocated. (5.3)

We fully agree that projects of limited interest to the wider membership and those making excessively slow progress should not waste the limited resources of Codex which should concentrate on top priorities. This prioritisation should be part of an overall process and should consider the proposals of each Committee on its priorities and programme of work, before advice by the Executive Committee and decision by the Codex Alimentarius Commission (CAC). We believe the Commission which has recently adopted critical review criteria for new work or to revise a standard⁵ should apply these rigorously, particularly in relation to the relevance of the work and proposed time-lines. Prioritisation of new proposals should be weighed against existing priorities.

2. Steps should be taken to increase the proportion of work done by correspondence (5.3)

We agree that some effort should be made to increase the work done by correspondence, particularly draft texts or work of a technical nature, in order to limit time and money expenditures. We note that the CAC will consider for final adoption at its next session two Guidelines on Working Groups, either "physical" or "electronic", to establish

⁴ In May 2004, the World Health Assembly (WHA) endorse the World Health Organization (WHO) Global Strategy on Diet, Physical Activity and Health (WHA57.17)

⁵ Procedural Manual (14th English edition), page 20.

clear guidance on the situations where such groups should be established. Physical meetings should be limited to very specific situations and organised in such a way to allow a maximum participation, especially from developing countries.

3. A time limit should be set for completion of each new project (5.3)

We fully support the establishment of time limits, an essential part of the critical review process, as a rule. This would allow the implementation of the various measures adopted by the CAC at its 27th Session to facilitate consensus⁶, and even in some instances work to stop when issues do not progress sufficiently, i.e. when there is no consensus.

4. Wherever possible, committees should be given enabling TOR only. They should be reactivated as necessary to undertake defined tasks and adjourned sine die once that task is completed. (5.5)

The ECMS are in favour of reinforcing the overall management of the committees. Enabling TOR could be part of this strategy.

5. Codex should review its remit to ensure that it conforms more closely to the current expectations of its members, having particular regard to the implications of the WTO agreements. (6.5)

Article 1 (a) of the CAC's Statutes clearly states the first objective is to protect the health of the consumers and ensure fair practices in the food trade. We also note that this dual Mandate has remained unchanged after extensive consideration at the 25th and 26th Sessions of the CAC. The importance of Codex work has increased since the WTO Agreements but we consider that it should continue to focus on its current objectives separate from purely trade issues within the remit of WTO.

6. The relevance of the work of other international standards setting bodies should be determined, and a clear statement of demarcation lines made clear to all participants. (6.5)

The ECMS agree that close cooperation should take place with other relevant international organisations dealing with food standardisation, especially OIE and IPPC as their output is also used as reference by WTO. It is essential to avoid co-existence of conflicting standards on the same issues and also duplication of work in view of the limited resources available to Codex. In addition it is of primary importance to confirm clear lines of demarcation between the officially recognised organisations. It should also be identified in what relevant areas there is no ongoing work neither in Codex nor in other international organisations in order to ensure that the whole food chain is covered and to avoid the existence of major gaps.

As regards other international organisations, attention should be paid to the inclusiveness of the concerned bodies.

7. A regular meeting of the chairs of subsidiary bodies should be formally recognised in the Procedural Manual. The meetings may be informal, but a summary of the main points discussed should be made available to all Codex members. (7.2)

The ECMS acknowledge the usefulness of a regular meeting of the chairs of subsidiary bodies and welcome the diffusion of a summary report of the main points discussed at this meeting, but are of the opinion that a formal recognition of the meeting in the Procedural Manual is superfluous; indeed this meeting should remain informal and should not be perceived as a new governing body with a limited representativeness.

8. Steps currently being taken to encourage collegial working within the Codex Secretariat should be encouraged. (7.4)

Full support.

9. Maximum use should be made of working groups, bilateral, or other low-level contacts between sessions to reduce the time needed to reach consensus in plenary meetings. (7.5)

The ECMS favour any initiative between sessions which could reduce the time needed to reach consensus in plenary meetings and note that the CAC will consider for final adoption at its next Session the Guidelines on Working Groups, either "physical" or "electronic", to establish clear guidance for such type of work between sessions. We are of the opinion that bilateral contacts should not be submitted to any formal procedure.

10. All standard-setting work should be subject to a greater degree of management oversight. Specifically, a new Commodities Management Committee should be established to manage the preparation and updating of commodity standards. (10.7-8)

⁶ Procedural Manual (14th English edition), page 60.

The ECMS support the idea that all standard-setting work should be subject to a greater degree of management oversight. However, although the concept of a Commodities Management Committee could be attractive, we fear that this new structure might introduce a new layer in the procedure which might consume even more the limited resources of Codex. In addition taking into account the variety of the subjects to be dealt with, it seems difficult to gather all the relevant experts needed to make appropriate proposals to the CAC. We are of the opinion that some experience from the new managing tasks allocated to the Executive Committee should be gained before any major change to the procedure is decided.

11: All commodity committees and task forces should be given simple enabling TOR which should be revised for a limited period only, to assign specific tasks to the committee. (10.10)

See 4.

12. The circumstances in which the Executive Committee, or some other body, should carry out a similar management role for the other committees should be carefully considered by the Commission. (10.12)

The ECMS agree that a broader oversight of the subsidiary bodies is necessary to move away from the current committee focussed approach noted in paragraph 10.2. The new elaboration procedure needs to be fully operated in order to gain some practical experience before discussing possible changes and/or possible options. We indeed believe that the Executive Committee, given that its membership includes regional coordinators and regional representatives, has sufficient geographic representation to ensure that it is capable of exercising appropriate management oversight which reflects the wishes of Codex members.

13. All committees should be encouraged to adopt a more systematic approach to self-management. (8.7)

Improved self-management of committees could help in achieving the objective of an improved global management of Codex work. However in order to ensure global coherence and also facilitate cross committee interaction, we believe that general guidelines on self-management should be developed by the Codex Committee on General Principles.

14. CCFAC should be split into separate Additives and Contaminants committees. (9.4)

The ECMS strongly support the splitting of CCFAC into two committees: one dealing with additives and the second dealing with contaminants.

More generally, we are of the opinion that new countries, and in particular developing countries, should be encouraged and possibly helped to host Codex Committees and Task Forces.

15. The GSFA should be the single authoritative reference point for food additives and this should be made clear in all commodity standards. (11.11)

This is implied by the Codex endorsement procedure for food additives⁷. This is without prejudice to the established division of work between Codex Commodity Committees responsible to determine the technological justification and need for a food additive, and also Good Manufacturing Practices (GMP), in commodity standards, and CCFAC.

16. All Codex requests for JECFA advice on additives and contaminants should be routed exclusively through the Additives or Contaminants committees (11.9)

Full support.

17. Consideration should be given to re-writing the TOR of CCMAS and re-assigning responsibility for specifying methods of analysis and sampling to the committee specifying the relevant limits. (12.3)

The ECMS note that methods of analysis are already developed in specific Codex Committees. Nevertheless CCMAS has an overseeing role for general methodology considerations and an endorsing role for specific methods proposed by the Codex Committees. It is essential that these roles be maintained else there will be disharmony of approach by the various Codex Commodity Committees with regards the general requirements for specific methods. In addition, there is no other Committee which can develop the horizontal requirements in the methods of sampling and analysis areas for Codex. All of these needed to be done in order for the interpretation of Codex Standards to be both effective and uniform. In addition, it has to be underlined that laboratory experts usually do not participate in Commodity Committees and that it seems difficult to get their expertise in all the relevant Committees should the competence be transferred.

⁷ Procedural Manual (14th English edition), page 89.

18. The Commission should consider carefully whether nutrition should play a role in Codex, and if so, what that role should be. (12.5)

Nutrition is already currently covered in the Terms of Reference of the Committee on Nutrition and Foods for Special Dietary Uses and the Committee on Food Labelling. However some reflection is probably needed as regards the global involvement of Codex in the field of nutrition. The ECMS support the view that general consideration should be given to how nutrition issues should be integrated into Codex work, while retaining the current mandate of Codex. The ECMS therefore favour a debate at CAC level on this issue as proposed by the Executive Committee at its 55th Session⁸

19. CCMH should now be wound up. CCFH should consider possibility of drafting a set of general guidelines to help rationalise hygiene provisions in commodity standards. (12.6)

The ECMS take note of the proposal for adjournment of the Committee on Meat Hygiene to be possibly confirmed at next Session of the CAC. Should new issues on meat hygiene arise in the future, the ECMS are of the opinion that flexibility should be kept on the most appropriate way to address these issues, either by a dedicated task force, or by mandating the Committee of Food Hygiene.

As regards the rationalisation of Codex Standards and related texts on hygiene provisions for commodities, we would like to recall that an endorsement procedure⁹ by CCFH already exists and that there is therefore no need to broaden the mandate of CCFH.

20. Provision for the drafting of regional standards should be removed from the TOR of the Regional Coordinating Committees. (12.8.)

Nowadays in the context of globalisation of the food trade, the usefulness of regional standards seems to have decreased. The ECMS indeed note that a number of Regional Committees no longer produce Regional Standards.

JAPAN

General Comments

We concur with the central conclusion of the report which stresses an urgent need for improved management and structure modification in order for Codex to conduct the work in an efficient and effective manner. Based on a belief that resources must be more appropriately allocated to high priority work, we support the shift of the Codex work from committee-oriented to task-oriented approach so as to best utilize scarce resources.

Specific Comments in accordance with the recommendations

1. We support the recommendation as long as it contributes to the best use of scarce resources. New work proposals should first be prioritized by each committee before being submitted to the Commission and Executive Committee. The Executive Committee should review new work proposals submitted by Committees as well as other new work proposals submitted by parties other than Committees against the Criteria for the Establishment of Work Priorities in the Critical Review process. It should, then, make recommendations to the Commission. Subsequently, the Commission should set priorities among all the proposals. Only proposals with high priority should be considered for approval as new work.
2. We support the recommendation. However, the difficulty in translating into all the Codex working languages is one of the major obstacles to working by correspondence, which has been pointed out by some countries. To overcome this problem, one option could be to establish a core group of an eWG consisting of a few members from English, French, and Spanish speaking countries, which facilitates communication among these countries using respective languages.
3. We share the view that time limit should be set for completion of each new project. Time-frame for new work should be clearly mentioned in a project document and determined before approval of its proposal. In the Critical Review process, the status of the work should be closely monitored. In principle, if work is not completed within the predetermined time-frame, the work should be discontinued. It is the Commission that makes a final decision on how to deal with such overdue work; however, there should also be an agreement on it within a relevant Committee or Task Force.
4. We support the recommendation.

⁸ ALINORM 05/28/3, paragraphs 84 to 90.

⁹ Procedural Manual (14th English edition), page 90.

5. While we do not oppose the recommendation, we think that Codex should remain as a science-based body as articulated in the “Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to Which Other Factors are Taken into Account”. It should not expand its remit beyond its expertise.
6. We acknowledge the importance of understanding the relevance of the work of other international standard setting-bodies and a need for demarcation between their work and the work of Codex. A meeting of relevant international organizations might be useful to discuss this issue. Such a meeting may be organized by a UN agency such as FAO or WHO.
7. Coordination among Committees should be further facilitated in order to enhance supplemental work and eliminate duplicated work. For this purpose, a meeting of the chairs of subsidiary bodies is deemed to be an effective means.
9. We support the recommendation. While some issues need to be discussed by several subsidiary bodies, there are duplications of some of their work. There is also a lack of coordination among subsidiary bodies. For example, there have been cases in which CCFAC and commodity committees did not interact with each other appropriately. In order to enhance such interaction and reduce duplication, a joint working group of relevant Committees can be convened during a regular session of Committees to discuss a common issue. The efforts should be paid to ensure transparency and inclusiveness of such working groups.
10. & 11. We share the view that all standard-setting work should be subject to a greater degree of management oversight. However, the relationship among Commodity Management Committee (CMC), the Executive Committee and the Commission is still undetermined. Terms of reference of the new CMC, if established, should be clear about its relationship with the Executive Committee.
12. As mentioned in the Procedural Manual, the decision to undertake new work or to revise standards shall be made by the Commission, taking into account a Critical Review conducted by the Executive Committee. The Executive Committee has recently started Critical Review to examine new work proposals and monitor the progress of standard development. The Commission should examine whether or not the Executive Committee’s new management role would bring about expected outcomes before establishing other similar schemes.
13. We support the recommendation. In addition, the efficiency of the conduct of plenary and working group meetings is the key to the effective management of the Committees. Revision of the Guidelines for Codex Committees and Ad Hoc Intergovernmental Task Forces in the Procedural Manual may need to incorporate the necessary element for the effective meeting management.
14. We strongly support CCFAC being split into two committees, the Committee on Food Additives and the Committee on Contaminants, in order to mitigate heavy workload and ensure full discussion of each agenda item.
15. We support the recommendation.
16. We support the recommendation.
17. We consider it better to maintain the present structure of CCMAS. CCMAS should keep the mandate to endorse methods of analysis and sampling proposed by Codex (Commodity) Committees. It will be effective and efficient for experts to meet at a central committee such as CCMAS to fully discuss methods of analysis and sampling.
18. We agree, in principle, with the recommendation that the Commission should consider whether nutrition should play a role in Codex. However, since the Executive Committee just asked WHO to prepare a document to facilitate the implementation of the Global Strategy (ALINORM 05/28/3, paragraph 86-90), Codex should wait for the report before further consideration. With regard to nutrition, it may also need to clarify whether or not the Codex should deal with functional foods and, if necessary, exchange information to decide how to proceed on this issue.
20. We support the recommendation. As far as we know, there are only three texts adopted by Codex for regional uses at present: Codex Standard for Fresh Fungus “Chanterelle”, CODEX STAN 40-1981; Code of Hygienic Practice for the Preparation and Sale of Street Foods, CAC/RCP 43-1997 Rev.1-2001; and Guidelines for the Design of Control Measures for Street-Vended Foods in Africa, CAC/GL-22 Rev.1-1999. Besides, regional standards are not included in the definition of “international standards” used in the SPS agreement (ALINORM99/33, paragraph 50). If members wish to work on standards for products that are of special interest to the region, Regional Coordinating Committee’s TOR (c) is sufficient to cover these products.

NEW ZEALAND

New Zealand welcomes this opportunity to comment on the proposals for review of Codex committees and task forces. At the outset New Zealand would like to commend the work done by the group of consultants. The report addresses some of the major concerns that members have had about Codex structures and processes in recent years. Clearly reform of Codex structures and processes is long overdue.

New Zealand's specific comments on the major recommendations are as follows:

Reform of Commodity committees (Recommendation 10 and 11)

New Zealand sees reform of commodity committees as a critical priority if the Commission is to deal with the problem of 'too many committees and too many meetings'. Notwithstanding the strategic emphasis on horizontal standards, the Commission continues to have a significant work load in the commodity area. As for reform of structures, New Zealand has carefully considered the proposal in the consultant's report for the establishment of a new Commodity Management Committee to handle all future commodity work but remains unconvinced about the need to create new structures. We believe that the Executive Committee in its new role as the strategic and standards management body should be charged with providing advice to the Commission on future priorities for commodities work and the mechanisms that might be used to advance such work.

The first and immediate priority must be to achieve an early completion of all existing commodity work. All existing commodity committees should be given a finite timeline for completion of all existing work. The Executive Committee and the Commission should systematically monitor progress of existing work to ensure that all work is completed according to schedule. Any work that cannot be progressed within the specified time frame should be suspended or discontinued.

Secondly, all future work in respect of commodities shall be scrutinised by the Executive Committee and the Commission taking into account the strategic framework and priorities of the Commission and the criteria for new work. There may be opportunities to group new commodity work into broad categories (e.g. plant products, processed foods etc) and assign the work to time bound task forces. We believe that the combination of rigorous scrutiny of new work proposals and streamlined and task oriented structures to advance work should greatly improve the management of commodity work in Codex.

New Zealand also supports the recommendation for simplified and standardised terms of reference for all commodity work. Even a cursory examination reveals a lot of inconsistencies in the existing terms of reference of commodity committees.

General Subject committees and the restructuring of CCFAC (Recommendation 14)

New Zealand supports the proposal to split the Committee on Food Additives and Contaminants (CCFAC) into two committees. This committee has done a commendable job in managing its heavy work load and would greatly benefit from a division of work along the lines proposed.

Meeting of the Chairs (Recommendation 7)

New Zealand welcomes and endorses the recommendation that the informal meeting of chairs be formalised. As the report notes, the informal meetings have proved useful in recent years in terms of fostering communication among chairs on current work and sharing of experiences in terms of managing work programmes. Formalising such meetings can help improve communication and foster better programme management across committees that have similar work interests. As for timing and frequency of such meetings we agree that an annual meeting held after each Commission session would be the most appropriate way to proceed.

If these meetings were formalised, we see value in the participation of the Codex Secretariat in the process to provide guidance on procedural issues and to facilitate transparency. We also see value in circulating a short summary report of such meetings to all members.

Prioritisation and Standards Management (Recommendations 1 and 3)

New Zealand strongly supports this recommendation and progress in this area will be critical to dealing with the issue of 'management deficit'. While there are issues around structure, the fundamental challenges facing Codex are in relation to prioritisation and programme management. Many committees have heavy workloads while other committees are beset by problems in advancing standards. New Zealand does not, however, see the need to establish new bodies such as a Standards Management Committee to address these problems. The issue for the Commission is not one of lack of structures but how these structures have been used to address problems relating to prioritisation and standards management.

New Zealand is entirely supportive of the Commission's decision to entrust the Executive Committee with greater responsibilities for strategic and standards management. However if the Executive Committee is to carry out its mandate effectively it requires strong commitment from all the subsidiary bodies particularly with regard to scrutiny of new work proposals against established criteria and progression of work between sessions.

With regard to timely completion of work we agree that all new work proposals should be given a finite time for completion. We also support the use of electronic and physical working groups to advance work between sessions. New Zealand's own experience with the management of work of the Meat Hygiene committee highlights the benefits of working groups and use of facilitators/consultants to develop draft texts and preparation of papers in between sessions.

Hygiene Issues (Recommendation 19)

With regard to hygiene work, New Zealand agrees that, with the completion of the work programme of the Codex Committee on Meat Hygiene, it is appropriate to look at alternative options. Future work in this area could be handled either under the existing Food Hygiene Committee or through a dedicated Task Force.

Food additives and contaminants provisions (Recommendations 15 and 16)

New Zealand supports the recommendation that CCFAC should be the sole committee to set upper safe limits for food additives and contaminants in commodities. The terms of reference of CCFAC should be amended to confirm this position. New Zealand also agrees with the comment that the General Standard for Food Additives (GSFA) should be explicitly and unambiguously recognized as the authoritative reference text for food additives.

Nutrition

With regard to nutrition, New Zealand sees a continuing role for the CCNFSDU but sees merit in reviewing its terms of reference to focus the work of the Committee those nutritional issues that are relevant to international standards development and which fall within the mandate of Codex. We see the FAO and WHO as the appropriate bodies for dealing with and providing advice on broader nutrition issues.

Regional Coordinating Committees

New Zealand believes that regional coordinating committees have a valuable role to play in the Codex system. They provide a forum for exchange of information and regional coordination on Codex and related issues. The recent initiatives to promote a strategic approach to regional coordination, capacity building and uptake of Codex standards reflect the importance that members attach to the work of regional coordinating committees.

On the issue of regional standards New Zealand agrees the Commission should discontinue work on regional standards for the reasons mentioned in the Consultants report. We believe that Codex should focus its work on the development of global standards.

CONSUMERS INTERNATIONAL (CI)

General remark

Consumers International (CI) wishes to thank the Consultants for their comprehensive review and to comment on the recommendations made and the basis for those recommendations in the review. Though the recommendations are made individually, CI encourages the Commission to consider the interaction of these recommendations within the broader vision of the Consultants' report. Since the review and recommendations affect all member governments and observer organizations, CI regrets that the Consultants appear to have distributed the questionnaire (Annex 2) on Codex committee structure only to the Codex committee chairs and host governments.

The Consultants historicize Codex work into two periods, before and after the creation of the World Trade Organization. They ask, without answering, whether "the WTO now has a legitimate "customer interest" in the output of the Codex programme" (4.3). If Codex is to make standards in such a way as to satisfy this "customer interest", Codex members would presumably provide "a significant increase in overall resources assigned to Codex work" (5.2). Those increased resources continue to be lacking, not only for the Codex Secretariat, but also for the provision of scientific advice that is to be the bedrock of Codex standards. Hence, it is not unfair to suggest that some of the Consultants' recommendations are attempts to make the best of a bad situation. While CI finds some of the Consultant's recommendations to be worthy of adoption in their own right, such a rationalization of Codex committee structure is no substitute for the increased resources needed to carry out Codex's mission. The Commission should consider commissioning a consultant report on options for enhancing Codex Secretariat resources and resources to provide the timely scientific advice that members and observers reported wanting in the Evaluation Report.

The prioritization of Codex work must respond to the mandate of protecting consumers and ensuring fair practices in the international trade of food. Determining the “customer interest” of the WTO is beyond Codex’s mandate and competence to interpret. Codex is a separate organization with its own clear and specific mandate. Its priorities are necessarily different from those of the WTO. Codex should prioritize its work in terms of its mandate and not in terms of trying to anticipate what evidence may or may not be adduced in WTO disputes. CI is increasingly concerned that the ability of Codex to help protect consumers is being compromised by trade interests. For example, in the Codex Committee on General Principles, advice to governments on risk analysis to protect consumers either may be denied or the scope of application of that advice may be reduced to the point of having little utility for protecting consumers, but great utility for protecting trade.

Comments on the Consultant’s recommendations

Recommendation 1: We agree that a formal prioritization should be undertaken for all new work proposals. This is an issue that will be discussed separately at the CAC this year in terms of generic guidance for the establishment of work priorities. It is not clear to us, however, how the recommended “formal prioritization” of new work is to take place, whether in each Codex committee and/or as a result of a Standards Management Committee or Executive Committee review of Codex committee proposals. Any prioritization process will have to develop some rules for resubmitting a project document that fails to be given high prioritization.

Recommendations 2-3: CI agrees with these recommendations that steps should be taken to increase the proportion of work done by correspondence and that a time limit should be set for completion of each new project. We believe that recommendations 2-3 are already being carried out as part of the implementation of the Codex and Food Standards Programme Evaluation Report. The guidelines on electronic working groups will help facilitate more inter-sessional work by electronic means and a five-year limit has been set for completion of new work. It is essential that greater reliance on correspondence does not prevent full member and observer participation.

Recommendation 4: CI generally agrees with the intent of this recommendation, but would welcome more discussion about how Committees would initiate specific tasks if they usually were in “a state of suspended animation” (paragraph 5.5). Or would several members propose new work to one of the management committees envisaged in this report? Or would a management committee or the Executive Committee itself initiate new tasks?

Recommendation 5: calls for a review of the Codex mandate “having particular regard to the implications of the WTO agreements”. The Commission declined to revise the Codex mandate, as had been recommended in the Evaluation Report (recommendation 4). CI does not believe that Codex can interpret what the “implications of the WTO agreements” will be nor should its mandate be revised as a function of speculation about those implications. Codex should not become subordinate to the WTO or alter its mandate because of the relationship between the two organizations. Its work must remain clearly focused on protecting the health of consumers and ensuring fair practices in the food trade.

Recommendation 6: We agree that the relevance of the work of other international standards setting bodies should be determined and a clear statement of demarcation lines made clear to all participants to the extent that this is possible. However, there will need to be some flexibility and in some circumstances joint working and greater co-operation may be appropriate. It is not clear who is to draw the “clear line of demarcation” between Codex and the “relevance of the work of other international standard setting bodies” to the work of Codex. FAO/WHO legal counsel could draft some general advice comparing the mandate and purpose of Codex to other international standard setting bodies. Yet such advice might be too general to guide the work of specific Committees or of a committee charged with prioritizing new work to be undertaken. CI believes that determination of the “relevance” of the work of other international standard setting bodies for Codex has to do with each review of project documents to determine Codex work priorities. However, we could welcome the Consultants’ explanation of what body is to determine “relevance” and to draw the “clear line of demarcation” between the work of Codex and that of other international standard setting bodies.

Recommendation 7: CI believes that it would be useful for the meetings of Chairs of committees and task forces to be carried out on a more formalized basis as clearly it is important to have regular liaison to avoid duplication and share experiences and best practices. However, it is not clear from the recommendation whether this meeting would have decision making authority or other functions beyond an exchange of information, coordination of work and improving standards management practices. Would the meeting require Secretariat resources? Would it have a published agenda and meeting report? Would the meeting generate documents or assign tasks? CI would welcome discussion of these and similar questions before formalizing a meeting of Codex committee and task force chairs in the Procedural Manual.

Recommendation 8: CI agrees that it is important that members of the Codex Secretariat meet to discuss how to better coordinate work among committees on a regular basis.

Recommendation 9: We agree with the recommendation to increase the use of working groups. However, we oppose the recommendation to increase the use of bilateral meetings. Currently member governments caucus before or during Codex meetings for information exchange and to work out consensus agreement. These consensus-making meetings usually exclude observer organizations. The recommendation to maximize this practice may work for the member governments invited to the consensus-making meetings. But for the observer organizations excluded from such meetings, increasing member government only meetings impedes transparency in standards elaboration.

Recommendation 10: We agree that all standards-setting work should be subject to a greater degree of management oversight. Although the Commission already has assigned the Executive Committee standards management functions, the Consultants believe that such standards management functions will overwhelm the Executive Committee. “Moreover, it [the Executive Committee] is only indirectly representative of the member countries and its deliberations are not open to external observers, or even to member governments” (8.5). The Consultants further imply that a Commodity Management Committee could be hosted by a member country. They suggest that such an arrangement would require less Codex Secretariat support than is required for the Executive Committee. Having made several proposals to open the Executive Committee to some form of observer participation, CI is sympathetic to the proposed Commodity Management Committee because of the possibility that its deliberations would be open to all members and observer organizations. However, it is difficult to imagine how the committee would prioritize its work, given the differing economic interests of members according to the commodities traded by their companies. Even if prevalence or severity of a food safety risk were a chief criterion for prioritization, the neglect of elaboration of commodity standards for less risk prone commodities, together with the pressure for Codex standards to serve trade facilitation, could lead to many forms of controversy. In sum, we agree with the goal to establish effective procedures for prioritizing and managing Codex work. It seems advisable to provide the committees with clearer tasks and schedules. However, we are not convinced that the establishment of a new committee that will probably face the same problems as the other committees (i.e. different positions and interests) will be the right way to achieve this goal. Therefore this particular recommendation needs more elaboration before CI could be persuaded of its utility for carrying out Codex’s mandate.

Recommendation 11: The body that gives terms of reference to each commodity committee and task force is missing from this recommendation, but presumably it would be the proposed Commodity Management Committee. CI’s concerns about Recommendation 10 apply here.

Recommendation 12: This recommendation considers whether the Executive Committee or a Standards Management Committee should oversee work in general subject committees. Since the Consultants believe that the Executive Committee workload would be too great if it took on standards management, are they suggesting that a General Subjects Standards Management Committee be created?. CI’s concerns about Recommendation 10 likewise apply here.

Recommendation 13: CI agrees with this recommendation that Codex committees develop a more “systematic approach to self-management”.

Recommendation 14: CI supports the recommendation to separate CCFAC into a Committee on Additives and a Committee on Contaminants.

Recommendations 15-16: CI has no objection to using the General Standard for Food Additives in commodities standards, with the caveat that work on a commodities standard may not be prioritized or may be delayed, if a new additive lacks a standard or when an existing standard is under review. CI supports the recommendation to route requests for scientific advice on additives and contaminants only through the committees proposed in Recommendation 14.

Recommendation 17: The Consultants propose that the work of the Codex Committee on Methods of Analysis and Sampling (CCMAS) be redistributed in committees undertaking specific tasks, e.g. micro-biological analysis in food hygiene. CCMAS would cease to meet, saving Secretariat resources. CI has not been active in CCMAS, and so holds no opinion on this recommendation.

Recommendation 18: The Consultants have urged the Commission to decide about the role, if any, of nutrition in Codex standards making. CI is of the view that it is essential that Codex should continue to work on nutritional issues, given the impact on public health and the recent recognition by the WHO through its Global Strategy on Diet, Physical Activity and Health that such work has to be a priority. Rather than questioning whether Codex has

a role in nutrition, the issue is about how Codex can fulfill this important part of its remit more effectively. We agree that its work on nutrition must be organized more effectively, but do not believe that this can be done merely by focusing on labeling initiatives. We consider it necessary to fulfilling Codex's mandate that a nutrition committee continues to operate. However, its remit should be more specific and more aligned to the objectives set down in the WHO's Global Strategy. It may be appropriate to establish a formalized process for obtaining scientific advice from the joint FAO/WHO expert meeting suggested in paragraph 12.5. As CI has commented in expert meetings on the provision of scientific advice, these meetings must be conducted transparently, and include procedures for the way that experts are selected and the way they declare any potential conflict of interest.

Recommendation 19: The Consultants recommend to “wind up” the Codex Committee on Meat Hygiene. Given the growth in the meat industry in developing countries forecast by FAO and the escalation in the number and volume of meat product recalls in several member countries, there are meat hygiene tasks pending, e.g. regarding the use of new meat inspection technologies and problems in the application of HACCP in slaughterhouses. If the Committee on Meat Hygiene is adjourned *sine die*, will meat hygiene tasks be prioritized by the Committee on Food Hygiene or would this responsibility fall to the proposed Commodities Management Committee? Is the recommended elaboration by CCFH of “general guidelines to help rationalize hygiene provisions in commodity standards” a foundational document for the proposed Commodity Management Committee or is it meant to advise governments on food hygiene? CI would welcome discussion of these questions and guidelines before any decision is made to “wind up” the Committee on Meat Hygiene.

Recommendation 20: If, as recommended, Codex Regional Coordinating Committees (RCCs) are no longer allowed to draft regional (usually food identity or quality) standards, the question arises, in what other forum can standards be elaborated for foods that are traded regionally? CI agrees that a rationalization of Codex committee work would benefit by allowing work only on global standards, but wonders at what harm to the members. Particularly in view of the importance of regional trade among developing countries, CI believes that the Commission should authorize a survey of Codex members to determine the extent to which members use the regional standards and to determine what resources are needed to develop the regional standards. If the regional standards are widely used, and the time needed to elaborate them does not impede the RCCs from carrying out other items of its agenda, the Commission may wish to decide to allow the RCCs to retain the discretion to develop regional standards.

49th PARALLEL BIOTECHNOLOGY CONSORTIUM (49P)

The 49th Parallel Biotechnology Consortium is pleased to have this opportunity to comment on the Circular Letter for the forthcoming Executive Committee and Commission meetings.

As is obvious from our name, this organization—while appreciating the important work Codex does in a variety of fields—is interested in public policies relevant to foods produced by modern biotechnology. Not only is our mandate limited, but so are our resources; as a result, we attend only selected Codex meetings. As a consequence, this comment is circumscribed as well: Recommendations 5 and 7, along with some general observations relevant to some of the other recommendations.

Recommendation 5

“Codex should review its remit to ensure that it conforms more closely to the current expectations of its members, having particular regard to the implications of the WTO agreements”

This recommendation appears to be based on the reasoning contained in paragraph 4.3 of the “Key Problems” section of the CL. It suggests that the focus of Codex, the dual mandate of “protection of public health and . . . facilitation of fair practices in international food trade” somehow needs to be modified because *a different international regime*, the WTO has decided—years later—to take account of Codex' actions. This is illogical, in our view; as we have said a number of times in Committee meetings, this is “putting the cart before the horse.” WTO is supposed to follow Codex, *not* the other way around.

The paragraph asks whether WTO has a sufficient “customer interest” to lead to a change in Codex' emphases. This terminology distorts the problem. Not only isn't Codex a merchandising operation with “customers”, but its immediate clients are consumers and international food traders, *not* another international agency.

The expectations of these clients have not changed, although the policy goals of some member countries may have.

Codex needs to be faithful to its existing dual mandate—which does not include the “promotion of trade” (a WTO objective). The various users of Codex' work (which may include the WTO's Dispute Resolution mechanism, but goes well beyond it) need to expect a fidelity to these two mandates, since both are of continuing necessity.

[It is a matter of considerable irony to us that in recent CCGP meetings, despite the repeated importuning of the WTO—as well as by the FAO and the WHO—the Committee has refused to progress in its development of Principles for Risk Assessments by countries, although such a document is awaited under WTO’s SPS Agreement. We would not be surprised if there were to be considerable overlap between the member countries which are the most supportive of Recommendation 5 and those which are most responsible for hindering the development of the risk document in CCGP, illogical though this might seem.]

The failure of the Codex remit in this regard seems to us to be due to a lack of will, not due to the structural organization or mandates of the Codex itself. We urge rejection of Recommendation 5 as it is currently written.

Recommendation 7

We understand the organizational utility of periodic meetings of the Chairs, but 49 P is concerned that such a structure will inevitably lead to decision-making that is closed to Observers and of reduced transparency. The discussions we have had about opening up the meetings of the Executive Committee are relevant here; some of the same policy concerns would be in play. Thus, we cannot support the Recommendation in its current form.

[We have similar concerns about **Recommendation 9**, since it combines open processes (working groups) with non-transparent ones (e.g., bilateral contacts).]

General Observations

Our organization is acutely aware of the resource constraints Codex has been operating under. We applaud the Secretariat for its Herculean efforts to process a huge amount of work with considerable efficiency. Although we encourage the parent organizations to augment funds for Codex (presumably from the wealthier member governments), and we genuinely welcome the operation of the Trust Fund which has enabled increased participation by the South, 49 P understands the need to streamline the schedule of committee meetings. Thus, we support **Recommendations 1-3** and look forward to continued discussions on **Recommendation 4**.

Nonetheless, as noted above, we have clearly observed that *often political factors, not resource constraints, are responsible for hampering committee progress; it appears that some members do not want certain issues resolved.*

The relationship between the proposed Commodities Management Committee (in **Recommendation 10**) and the Executive Committee is not clear in the CL and will require a great deal of additional discussion, we believe.

INTERNATIONAL COUNCIL OF BEVERAGES ASSOCIATIONS (ICBA)

The International Council of Beverages Associations (ICBA) is a nongovernmental organization that represents the interests of the worldwide nonalcoholic beverage industry. The members of ICBA operate in more than 200 countries and produce, distribute, and sell a variety of water-based beverages, including carbonated soft drinks and noncarbonated beverages such as juice-drinks, bottled waters, and ready-to-drink coffees and teas. ICBA appreciates the opportunity to provide comments on the options for change contained in the Review of the Codex Committee Structure and Mandates of Codex Committees and Task Forces.

Recommendation 1. A formal prioritization should be undertaken of all new work proposals, before resources are allocated. (5.3)

ICBA strongly supports a stricter prioritization of projects and adopting criteria for establishing work priorities.

Recommendation 2. Steps should be taken to increase the proportion of work done by correspondence (5.3)

ICBA supports undertaking more preparatory work by correspondence such as better utilization of e-working groups, especially when dealing with technical work. However, we note that ways to enhance the participation of the developing countries in e-working groups should be considered.

Recommendation 3. A time limit should be set for completion of each new project (5.3)

ICBA supports establishing time limits to avoid fruitless discussions year after year on topics where no international consensus exists. At minimum, there should be regular intervals for reviewing the progress of work and revising the goals if no progress is made after a reasonable time.

Recommendation 4. Wherever possible, committees should be given enabling TOR only. They should be reactivated as necessary to undertake defined tasks and adjourned *sine die* once that task is completed. (5.5)

ICBA supports a more task-oriented approach of the work and establishing TOR to define a task set and a timeframe for completion of work. We are uncertain what establishing enabling TOR only and assigning specific tasks would accomplish compared to the existing structure. This would require further discussion.

Recommendation 5. Codex should review its remit to ensure that it conforms more closely to the current expectations of its members, having particular regard to the implications of the WTO agreements. (6.5)

ICBA agrees that the current acceptance procedure should be discontinued and removed from the Procedural Manual. We support this recommendation in principle.

Recommendation 6. The relevance of the work of other international standards setting bodies should be determined, and a clear statement of demarcation lines made clear to all participants. (6.5)

ICBA agrees that there is a need to avoid duplication or conflicts between Codex and other international organizations. For example, there should be a clear separation of work between Codex and ISO.

Recommendation 7. A regular meeting of the chairs of subsidiary bodies should be formally recognized in the Procedural Manual. The meetings may be informal, but a summary of the main points discussed should be made available to all Codex members. (7.2)

ICBA supports ways to provide more coordination of work, but we are not convinced that formal meetings of the chairs would be the best way to achieve that goal. We would appreciate hearing examples how the current informal meetings have improved coordination.

Recommendation 8. Steps currently being taken to encourage collegial working within the Codex Secretariat should be encouraged. (7.4)

No comments.

Recommendation 9. Maximum use should be made of working groups, bilateral, or other low-level contacts between sessions to reduce the time needed to reach consensus in plenary meetings. (7.5)

ICBA supports more preparatory work between sessions, but notes that formal working group meetings can be resource intensive. We would support use of more e-working groups to prepare technical draft texts.

Recommendation 10. All standard-setting work should be subject to a greater degree of management oversight. Specifically, a new Commodities Management Committee should be established to manage the preparation and updating of commodity standards. (10.7-8)

ICBA supports a greater degree of oversight of work. We are uncertain of the value of a new proposed Commodities Management Committee. The oversight of commodity standards work could be taken by the Executive Committee and the Commission could decide on specific tasks for any work in this area.

Recommendation 11. All commodity committees and task forces should be given simple enabling TOR which should be revised for a limited period only, to assign specific tasks to the committee. (10.10)

ICBA supports this recommendation in principle and supports the notion that commodity work should be task oriented. The need of each commodity standard should be carefully considered with relevance to international trade and consumer safety. In general, ICBA supports giving a priority to horizontal standards. New work on commodity standards should be limited to those standards that enhance food safety.

Recommendation 12. The circumstances in which the Executive Committee, or some other body, should carry out a similar management role for the other committees should be carefully considered by the Commission. (10.12)

ICBA supports improved management and oversight of work and the Executive Committee could fulfill this role. We believe that Commission should carefully examine the issue but we would not support establishing a separate management group.

Recommendation 13. All committees should be encouraged to adopt a more systematic approach to self-management. (8.7)

ICBA supports a stricter self-management of work but notes that many committees have been unable to accomplish it.

Recommendation 14. CCFAC should be split into separate Additives and Contaminants committees. (9.4)

ICBA recognizes the heavy work load of CCFAC and strongly supports splitting it into two separate committees. We do not see the merit of converting CCFAC into the proposed Management Committee for Food Additives and Contaminants. We believe this only would add a layer of bureaucracy. Two separate committees would be a better option considering the differences in risk management possibilities between food additives and contaminants.

Recommendation 15. The GSFA should be the single authoritative reference point for food additives and this should be made clear in all commodity standards. (11.11)

ICBA agrees with this recommendation.

Recommendation 16. All Codex requests for JECFA advice on additives and contaminants should be routed exclusively through the Additives or Contaminants committees (11.9)

ICBA agrees with this recommendation.

Recommendation 17. Consideration should be given to rewriting the TOR of CCMAS and re-assigning responsibility for specifying methods of analysis and sampling to the committee specifying the relevant limits. (12.3)

ICBA suggests further investigating the need for CCMAS to determine if the work of CCMAS duplicates work by other international organizations in the area of developing standardized analytical methods such as AOAC.

Recommendation 18. The Commission should consider carefully whether nutrition should play a role in Codex, and if so, what that role should be. (12.5)

ICBA believes that Codex work and limited resources should be focused on developing science-based standards and food labeling aspects that enhance international trade while providing consumer protection. Specific issues related to nutrition guidance or education should be left to national governments and WHO. We agree with the notion in the report that Codex should not take a role in purely educational and exhortatory nutritional activities, including issues of advertising. These aspects are culturally sensitive and should be addressed at local levels. We do not believe that the role of Codex should be extended beyond its current role. We would support considering merging CCFL and CCNFSDU, and addressing issues of foods of special dietary uses by task forces.

Recommendation 19. CCMH should now be wound up. CCFH should consider possibility of drafting a set of general guidelines to help rationalize hygiene provisions in commodity standards. (12.6)

We support a role for CCFH as a general subject matter committee in all issues of food hygiene but we are concerned about the increasing workload of CCFH.

Recommendation 20. Provision for the drafting of regional standards should be removed from the TOR of the Regional Coordinating Committees. (12.8.)

ICBA agrees that the focus of Codex work should be on the international standard development. The need for regional standards should be carefully investigated since regional standards can create barriers to international trade.

INTERNATIONAL DAIRY FEDERATION (IDF)

IDF welcomes the proposal as outlined in CL 2005/12-CAC. It will make the Codex standard-setting process more effective and efficient and keep it focused on its mission.

General observations

In general, IDF supports the notion that food safety is a key aspect in the Codex system. However, in light of the present WTO agreements we are also of the view that Codex commodity standards defining the identity of products in international trade are essential in order to protect the consumer and to facilitate international trade.

IDF is of the view that there are two main challenges to the Codex system at present:

- how to prioritize initiation of new work, and
- how to manage work that has been initiated.

These are quite distinct in nature and need different management tools. It appears that many of the recommendations attempt to address both challenges through the same solutions. For instance, measures to address control of prioritisation seem to be addressed by recommendations No.1, 4, 5, 10, 11, 13, 17 and 20. However, it is doubtful that these changes will have much impact on the effectiveness in prioritisation of the work programme, in particular the decision making process on proposals for new work items. For commodity standards, the establishing of objective quantitative criteria to supplement the existing qualitative "Criteria for the Establishment of Work Priorities" would be more effective. One such qualitative criterion could be for instance the minimum volume of production in a minimum number of countries/regions.

Addressing the above two challenges separately would assist in focusing the discussion on structure to those changes needed in order to improve the day-to-day management of the Codex work process (that relates to already initiated work).

Specific comments by section of the document

IDF would like to comment on individual sections and recommendations of the paper as follows:

Section 6, paragraph 6.4

IDF is correctly referenced as an international body that sets food-related standards. IDF has a formal cooperation agreement with the International Organization for Standardization (ISO) in regard to the development of standards methods of analysis and sampling relating to dairy products. These standard methods are jointly published by ISO/IDF and many of them have been adopted by Codex.

Section 9

We strongly support the proposal to split CCFAC into two committees, one committee dealing with food additives and the other one dealing with contaminants.

Section 10

IDF sees a need for more detailed thinking on how Codex commodity standards would be developed and the process managed by the proposed “Commodities Management Committee” (CMC) to ensure that it does not introduce an unnecessary layer of bureaucracy before CAC moves to a decision on this issue. If more bureaucracy is the consequence the idea should not be pursued further.

We are concerned that the proposed CMC may just create an additional layer of unnecessary bureaucracy in the Codex system without proving the benefits that would balance the extra costs and constraints. If Codex would decide in favour of the establishment of a CMC that may be necessary in order to steer individual projects after the abolition of vertical Codex committees, it may be prudent to consider CMC overseeing the entire Codex programme rather than only the commodity specific areas.

IDF supports the idea of timeliness in decision-making, clear description of the terms of reference for each Committee, both in the horizontal as well as in the vertical area and the creation of Task Forces. In this respect, we are missing the desire to encourage the determination to get things done expeditiously. In practical terms this means using modern methods of communication whenever possible, including at the various stages of approval. ISO provides a good example in this respect and we would like to encourage Codex to look into it. We find it also worthwhile trying to maximize the joint sense of mission among Codex participants for instance through regular meetings of Codex committee Chairs.

Section 11

IDF can see the potential benefit behind the proposal that committees should undertake only work as assigned in view of curbing the potentially open-ended workload of committees such as CCMMP. On the other hand, we would like to request caution in view of the possible extra resources and possible delay in the elaboration and revision of Codex standards when disbanding the present system of Term of Reference allowing a Codex committee to perform several specific tasks simultaneously. In addition, we regard it essential that expertise in commodity products must play the major role in the development of standards, or the latter will not be relevant in practice, while expertise in Codex processes is also very important.

Section 12

CCMAS has a significant role to play, although it could perhaps be sufficient to convert it into a Task Force reporting to CMC, if it was decided to establish CMC. The role of endorsement of methods put forward by commodity committees is essentially an administrative one and does not need committee attention but the broader issues on the relationship between limits and method uncertainty and similar issues of concern to all analysts deserve a homogeneous approach in Codex and this could be provided for with a Task Force.

IDF supports the proposal that Codex should limit its future activities to developing global standards while leaving the development of regional standards to other regional bodies.

Section 13 – Specific recommendations (IDF comments on recommendations not covered in our comments above)

Recommendation 15

The respective clause 11.11 states that the GSFA should be the authoritative reference text for additive safety limits. The mention of safety should be included in recommendation 15. Additives may need to be limited for technical reasons (other than safety) as is part of the current work of Codex commodities.

Additional recommendation

IDF would like to propose the development of an additional recommendation referring to the Codex Executive Committee and the Codex Secretariat to emphasize the importance of making progress as rapidly as possible to all participants in Codex work at every opportunity. These bodies should encourage practical measures to facilitate progress whenever possible.

This may be one contribution to a better management of Codex Committees that is needed from our perspective.

INTERNATIONAL FEDERATION OF ENVIRONMENTAL HEALTH (IFEH)

On behalf of the International Federation of Environmental Health, the Federation's Board of Directors, having perused the document produced by the Consultants and circulated in March, finds that all of the recommendations made by the Consultants are acceptable and suggests that they be accepted in their entirety and implemented as soon as practicable.

INTERNATIONAL FEDERATION OF FRUIT JUICE PRODUCERS (IFU)

We would like to contribute to the discussion based on our experience within various Codex bodies during the past years. We would like to concentrate our comment on one item, which according to us has great influence on the efficiency of the Codex work.

One of the main problems within the Codex procedural rules is the decision by consensus. There is no doubt, that this would be the most desirable way to advance in a project. However, the experience shows, that this is also the main reason for slowing down the establishment of Codex documents. The consultants in their final report propose to limit the time available for the completion of a specific work in order to give pressure on the willingness of the members to find a consensus. According to our experience, this measure alone will not solve the problem. We got at several occasions the impression, that some delegations use the system of decision taking by consensus as a kind of veto right, hoping that at the end no document will be issued. In order to avoid this, it would be necessary to limit the time of discussion e.g. to two sessions, and if after two sessions no consensus could be found, a voting should take place with for instance a 2/3 majority. This method would much more increase the willingness to contribute to a consensus, as the fear, that at the end a solution could result, which is less acceptable than a compromise taking into account as many points as possible brought forward during the discussions.

One of the proposals of the consultants is the preference to be given to electronic work. This is absolutely correct and very helpful during the establishment of a new document or the revision of a document, where the opinions are not too discrepant. However, in order to solve a problem, where opinions are very controversial, our experience showed, that only physical working groups are able to make progress.

When a working group is established during a Codex session the number of members of such a working group is rather small. If a physical working group meeting just before a next session of the respective committee is scheduled, all participants of the plenary session of this committee are allowed to attend this working group meeting. This increases the number of participants in the working group drastically, as experienced at the Working Group on the Preamble of the GSFA, which took place on Thursday before the plenary session of CCFAC. The advantage of a small group, which works definitely more effective than a group of more than 100 people, is lost by this procedure.

WORLD ORGANIZATION FOR ANIMAL HEALTH (OIE)

The OIE welcomes the work done by the Consultants and appreciates the willingness of the CAC to keep itself in tune with the evolving environment.

The OIE supports the recommendations proposed in the report, notably the recommendations n. 5 and 6 in section 13:

“5. Codex should review its remit to ensure that it conforms more closely to the current expectations of its members, having particular regard to the implications of the WTO agreements. (6.5)

6. The relevance of the work of other international standards setting bodies should be determined, and a clear statement of demarcation lines made clear to all participants. (6.5)”

Recognising the usefulness of the normative framework provided by the World Trade Organisation (WTO), in particular within the Sanitary and Phytosanitary Agreement (SPS Agreement), the OIE is willing to formalise its collaboration with the CAC. On this basis, the OIE has already renewed its cooperation with FAO and WHO by ratifying two new mutual agreements. Within this cooperation and on request of the Codex Executive Committee, FAO and WHO will continue discussions with OIE on how to foster the relations in between Codex and OIE. The resulting synergies will benefit both organisations.

To help coordination between the CAC and the OIE, the OIE Member Countries gave the Director General a mandate to constitute the OIE Animal Production Food Safety Working Group. Its current members include the Chairman and the Secretary of the CAC, the Chairman of the Codex Committee on Meat Hygiene, the Director of the Food Safety Department of the World Health Organization (WHO) and experts from OIE Member Countries. A high level FAO expert will be nominated soon.

One of the Working Group's roles is to help the OIE define more precisely its policies on the development of standards aimed at protecting consumers from food-borne hazards arising from animals at the production level of the food chain.

The OIE has already contributed to the production of the Code of Practice on Good Animal Feeding, the draft Code of Hygienic Practice for Meat and the draft Code of Practice to Minimize and Contain Antimicrobial Resistance. The OIE believes that it is essential to further improve this cooperation in order to enhance the harmonised development of the following priorities:

- Animal identification and traceability¹⁰.
- Testing, inspection and certification¹¹.
- Antimicrobial resistance¹².
- Good farming practices.
- Salmonellosis and other food borne diseases linked with the animal production.

To achieve a harmonised production of standards the OIE would like to create more solid basis for the cooperation between the two organisations. Therefore, in view of Codex's restructuring, the OIE supports the CAC trying to create the legal framework for an official agreement with the OIE. This is in line with the Consultants' report that CAC should also, wherever possible, seek to enter into formal agreements or understandings with other relevant international standard-setting bodies to confirm the duties and to avoid conflicts and duplication of the work being undertaken.

¹⁰ The OIE is setting standards for live animals and would like to work with the CAC in order to link them with the future Codex standards on products.

¹¹ The OIE would like to work with the CAC to harmonise and simplify the export certification procedures for public health and animal health issues for products of animal origin.

¹² The OIE is willing to work with the CAC in the framework of the creation of a joint Codex/OIE task force to address this topic.