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# codex alimentarius commission **E**



FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD  
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Agenda Item 5

## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION

#### *Fifty-eighth Session*

*WHO Headquarters, Geneva, Switzerland, 28 June - 1 July 2006*

### CONDUCT OF THE CRITICAL REVIEW BY THE EXECUTIVE COMMITTEE

#### **Background**

1. The Executive Committee, at its 57<sup>th</sup> Session, had a general discussion on the approach to the critical review and agreed that general criteria and working procedures should be defined before undertaking the monitoring of specific items. The Representative of FAO and some members proposed to establish a sub-committee that would work between the sessions for this purpose; however the Committee noted that this could raise difficulties in practice due to the terms of office of the members of the Executive Committee.<sup>1</sup>

2. After some further discussion, the Committee agreed that the criteria and approach to be applied in the critical review could be summarized as follows:

- When progress on a standard is delayed due to the need for scientific advice, the Executive Committee could encourage FAO and WHO to schedule an expert consultation to provide such advice in a timely manner, and recommend suspension of work until such time as scientific advice became available;
- When scientific advice has been provided and a standard has been under consideration for more than five years, the Executive Committee should urge the Committee concerned to take action within a specified timeframe;
- When an item has been considered for several sessions without any progress and there is no prospect of reaching consensus, the Executive Committee could propose suspension or discontinuation of work on that subject; and
- When no justification has been provided by a Committee for delay in the elaboration of a standard, the Executive Committee could propose corrective action.

The Committee agreed that these draft criteria including the timeframe would be discussed at its next session with a view to their finalization.<sup>2</sup>

<sup>1</sup> ALINORM 06/29/3 para. 53

<sup>2</sup> ALINORM 06/29/3 paras 62 and 63

3. The Committee recalled its earlier decision that the session of the Executive Committee held immediately prior to the Commission would review proposals for new work, while the session held between the sessions of the Commission would monitor standards development. The Committee therefore noted that its 58<sup>th</sup> Session would focus on the consideration of the proposals for new work. It would also finalize and forward to the 29<sup>th</sup> Session of the Commission for approval the criteria to be applied in the monitoring process. The Committee noted that its 59<sup>th</sup> Session would use the criteria approved by the Commission to conduct the critical review of individual standards under development and provide recommendations to the Committees concerned to address delays in the elaboration process, on the basis of an updated document reflecting the status of standards development at that time.<sup>3</sup>

4. The Executive Committee requested the Secretariat to explore possibilities to establish a sub-committee to allow the Executive Committee to effectively conduct the critical review especially the monitoring of progress of work and to report its findings back to the Committee at its next session.<sup>4</sup>

### **Criteria and Approach to be applied in the Critical Review (Monitoring Progress of Standards Development)**

5. The Committee is invited to discuss and finalise the draft criteria mentioned in paragraph 2 above, in order to facilitate its tasks defined in Part 2 of the Elaboration Procedure (Critical Review), section on monitoring progress of standards development. The finalised criteria will be forwarded to the Commission for approval.

### **Proposed Establishment of a Sub-Committee of the Executive Committee<sup>5</sup>**

6. Following the amendments to the Rules of Procedure adopted by the 28<sup>th</sup> Session of the Commission, Rule V.4 of the Rules of Procedure allows the Executive Committee to “establish such sub-committees from among its Members as it may deem necessary to enable it to exercise its functions as effectively as possible. Such sub-committees should be limited in numbers, carry out preparatory work and report to the Executive Committee. The Executive Committee shall appoint one of the Vice-Chairpersons of the Commission to serve as chairpersons of any such sub-committee. Consideration should be given to an appropriate geographical balance in the membership of sub-committees.”

7. The 57<sup>th</sup> Session of the Executive Committee, for the first time, agreed to establish a sub-committee of the Executive Committee in the form of an in-session working group chaired by Vice-Chairperson Dr Karen Hulebak, consisting of the Vice-Chairpersons and the Members elected on a geographic basis, with the participation of the Representatives of FAO and WHO, in order to redraft the Draft Strategic Plan 2008-2013.<sup>6</sup>

8. If the Executive Committee wishes to consider a sub-committee to be charged with the preparatory work on the whole or parts of its critical review functions, consideration should be given to the following.

#### Terms of office of the members of the Executive Committee

9. The Rules of Procedure of the Commission provide that the Executive Committee shall normally meet immediately prior to each session of the Commission, although it may be convened as often as necessary by the Directors-General of FAO and WHO in consultation with the Chairperson (Rule V.6). The same Rules also provide that the Vice-Chairpersons are elected at each session of the Commission and hold office from the end of the session at which they were elected and until the end of the following regular session (Rule III.1).

10. The above-mentioned provisions of the Rules of Procedure imply that the Vice-Chairperson to serve as the chairperson of a sub-committee can be appointed by the Executive Committee no earlier than at the

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<sup>3</sup> ALINORM 06/29/3 para. 70

<sup>4</sup> ALINORM 06/29/3 para. 71

<sup>5</sup> This section focuses on the use of a sub-committee in the conduct of the critical review by the Executive Committee. It should be stressed that, apart from the critical review, a sub-committee would be free to address any matters for which the Executive Committee is asked to provide guidance at that particular session, by way of “in-session” or “pre-session” meetings.

<sup>6</sup> ALINORM 06/29/3 para. 7

beginning of a session of the Executive Committee immediately following the Commission session. Under the current Codex session arrangements, such session of the Executive Committee is usually held approximately six months after the Commission session, provided that the Commission holds annual session. The same sequential requirement applies to the appointment of other members of the sub-committee.

11. If the expectation is that a sub-committee operates in-between sessions of the Executive Committee, such sub-committee cannot meet during the period between the Commission session at which elections have taken place and the Executive Committee session that immediately follows the Commission session, but can only be operational from the beginning of that Executive Committee session (usually held between December and February) until the end of the following Commission session (usually held in July). This half-year period corresponds to the season during which many sessions of Codex subsidiary bodies take place week after week, and it might be difficult to plan for a session of such sub-committee.<sup>7</sup>

12. In order to allow for the establishment of a sub-committee that would remain operational around the year, an additional session of the Executive Committee would need to be held immediately after each regular session of the Commission. The composition and chairmanship of the sub-committee could be agreed upon at this additional session of the Executive Committee.

13. However, it should be noted that convening an additional session of the Executive Committee as described in the preceding paragraph would have significant financial implications to the Codex budget as well as to those members of the Executive Committee having to bear their own travel expenses.

#### Timeliness of the preparatory work by a sub-committee of the Executive Committee

14. Since the sessions of Codex subsidiary bodies are scheduled all year round, it is probable that several meetings of subsidiary bodies take place after the meeting of a sub-committee and before the session of the Executive Committee to which the sub-committee is required to report, if a sub-committee works between sessions. By the time the Executive Committee has to formulate, based on the preparatory work of the sub-committee, an advice to a specific Codex committee, the situation in that committee may have changed and the work of the sub-committee may become irrelevant.

15. In view of the above, as far as the current Rules of Procedure are adhered to and in order to effectively assist in the conduct of the critical review by the Executive Committee, a sub-committee of the Executive Committee may operate during any session of the Executive Committee (“in-session” meeting) or immediately prior to the session of the Executive Committee that precedes a regular session of the Commission (“pre-session” meeting).

#### Functions of a sub-committee of the Executive Committee

16. One possibility for using a sub-committee in the framework of the critical review may be to task a sub-committee to convene a “pre-session” meeting in conjunction with the session of the Executive Committee immediately prior to a Commission session and conduct a preparatory review of the proposals for new work. The Executive Committee may wish to consider whether such preparatory work could facilitate the discussion during the plenary session of the Executive Committee.

17. Another possibility may be to task a sub-committee to conduct preparatory work on monitoring progress of standards development. Provided that the Executive Committee continues to undertake the monitoring of standards development at its session held between sessions of the Commission, such sub-committee may hold an “in-session” meeting during that Executive Committee session. However, the degree to which the monitoring of standards development could be facilitated by the use of an in-session meeting of a sub-committee needs to be evaluated, including the implications to the total duration of the Executive Committee session, before a decision is taken.

18. The Executive Committee is invited to offer such views and guidance, as appropriate, on the use of a sub-committee in dealing with the conduct of the critical review as part of its functions, in the light of the above considerations.

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<sup>7</sup> This analysis is based on the assumption that the Commission sessions are held annually. If the Commission decides to go back to biennial regular sessions in the future, a sub-committee can remain active for one year before each Commission session.