

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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Agenda Item 4

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX ALIMENTARIUS COMMISSION

Twenty-eighth Session

FAO Headquarters, Rome, 4 – 9 July 2005

COMMENTS ON PROPOSED AMENDMENTS TO THE PROCEDURAL MANUAL

(Australia, Brazil, European Community, United States of America)

AUSTRALIA

Proposed Amendments to the Procedural Manual Resulting from the Abolition of the Acceptance Procedure

Australia supports, in principle, the abolition of the Acceptance Procedure and the consequential amendments to the Codex Procedural Manual given these procedures have not been used for many years and have been superseded in most countries by the reporting requirements under WTO agreements.

However, we do have concerns that the abolition of paragraph 4 of the Guidelines for the Acceptance Procedure for Codex Standards (14th Edition, page 37) will result in the loss of a fundamental and important principle of the Codex Alimentarius. Australia considers the provisions in paragraph 4 provide guidance to member countries on how to implement or give regard to Codex standards in developing national regulations. The provisions Australia believes are particularly important include;

- Informed and responsible judgement when comparing Codex standards and national food regulatory measures;
- Use of Codex general standards as benchmarks for development of national standards
- Benefits and limitations of using Codex commodity standards in the development of national standards; and
- Recognition of Codex standards as presumptive standards in national food regulations (e.g. MRLs).

Retention of this guidance within the Procedural Manual will assist in harmonisation of standards setting and ensuring fair practices in the food trade in line with many Codex members' obligations as World Trade Organization (WTO) members.

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The text of the paragraph we propose be retained is as follows, and takes account of the views expressed by the Codex Secretariat and the WHO Legal Counsel at the 22nd Session of the Codex Committee on General Principles (Alinorm 05/28/33A paragraph 85):

The Codex Alimentarius: Not a substitute for, or alternative to, referring to national legislation

4. Every country's laws and administrative procedures contain provisions which it is essential to understand and comply with. It is usually the practice to take steps to obtain copies of relevant legislation and/or to obtain professional advice about compliance. ~~The Codex Alimentarius is a comparative record of the substantive similarities and differences between Codex standards and corresponding national legislation.~~ The Codex Alimentarius will not normally deal with general matters of human, plant or animal health or with trade marks. The language which is required on labels will be a matter for national legislation and so will import licences and other administrative procedures.

As noted above, our proposal suggests deleting the third sentence as it relates specifically to the acceptance procedure, however, we are of the view that the statements contained in the remaining sentences are an important clarification as to the purpose of the Codex Alimentarius.

Background

Australia proposed this amendment at the 22nd Session of the Codex Committee on General Principles meeting in April 2005. The Codex Secretariat and the WHO Legal Counsel indicated that this paragraph, being part of the *Guidelines for the Acceptance Procedure*, referred to other provisions that should be notified and therefore, could not be taken in isolation or transferred to another section where it would not have the same relevance, without a specific need to do so. (Alinorm 05/28/33A paragraph 85).

Given the importance of this guidance for all member countries, Australia is asking the Commission to endorse its inclusion in the Codex Procedural Manual as a new General Principle after paragraph 3 **Nature of Codex Standards** (14th Edition page 31).

BRAZIL

DRAFT PRINCIPLES AT STEP 8 OF THE PROCEDURE

1. Draft Risk Analysis Principles Applied by the Committee on Food Additives and Contaminants – Appendix II – Alinorm 05/28/33

Brazil supports the adoption of this document at step 8.

2. Draft CCFAC Policy for Exposure Assessment of Contaminants and Toxins in Foods or Food Groups - Appendix III - Alinorm 05/28/33

Brazil supports the adoption of this document at step 8.

PROPOSED AMENDMENTS TO THE PROCEDURAL MANUAL

3. Draft Revised Criteria for the Establishment of Work Priorities – Appendix IV - Alinorm 05/28/33

Brazil supports the adoption of this amendment to the Procedural Manual.

4. Draft Guidelines on Physical Working Groups and the Draft Guidelines on Electronic Working Groups – Appendices V and VI - Alinorm 05/28/33

Brazil supports the adoption of this amendment to the Procedural Manual.

5. Draft Revised Principles concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission - Appendix VII - Alinorm 05/28/33

Brazil supports the adoption of this amendment to the Procedural Manual.

6. Draft Guidelines for Cooperation with International Intergovernmental Organizations - Appendix VIII - Alinorm 05/28/33

Brazil supports the adoption of this amendment to the Procedural Manual, with a small amendment in paragraph 3. In order to maintain coherence with the other chapters of the Guidelines, we suggest to add the word **international** in the second line, to read as follows:

“The Codex Alimentarius Commission may undertake the elaboration of any standard or related text in cooperation with another **international** intergovernmental body or organization”.

7. Draft Amendment to the Rules of Procedure on the Right to Address the Chair - Appendix IX - Alinorm 05/28/33

Brazil supports the adoption of this amendment to the Procedural Manual.

EUROPEAN COMMUNITY

The Member States of the European Community (MSEC) support the proposed amendments to the Procedural Manual of the Codex Alimentarius Commission but would like however to make the following remarks:

1) As regards the Proposed Amendments to the Procedures for the Elaboration of Codex Standards and Related Texts (Appendix V)/Proposed Amendments to the Terms of Reference of Subsidiary Bodies (page 17 of the EN version), the MSEC would like to propose the following minor amendment:

(h) promotes the use of Codex standards and related texts by members ~~countries~~.

2) As regards the draft CCFAC Policy for Exposure Assessment for Contaminants and Toxins in Foods and Foods Groups, the following paragraph 8 has been included in the document: “*JECFA performs exposure assessments if requested by CCFAC using the GEMS/Food Regional Diets and, if needed, available national consumption data to estimate the impact on dietary exposure of proposed alternative maximum levels to inform CCFAC about these risk management options*”. The delegation of Belgium expressed its reservation on this decision. (ALINORM 04/27/12 § 128 c). While not opposing the inclusion of paragraph 8 in the draft CCFAC Policy for Exposure Assessment of Contaminants and Toxins in Foods or Food Groups, the MSEC wish to reiterate that only in certain cases do such comparative exposure assessments of proposed maximum levels provide useful information enabling CCFAC to perform a consistent policy on the prevention and reduction of the contamination of the food chain by contaminants.

UNITED STATES

Draft Principles at Step 8 of the Procedure

1. Draft Risk Analysis Principles Applied by the Committee on Food Additives and Contaminants

U.S. Position: The United States supports the Risk Analysis Principles Applied by the Committee on Food Additives and Contaminants.

The U.S. notes that a number of committees are currently developing risk analysis guideline documents and that there is a degree of divergence among the various documents. The U.S. urges the relevant Codex committees to complete their work on risk analysis. The U.S. endorses the statement of the representative of WHO (para. 22, ALINORM 05/28/33) who noted that, when finalized, all documents require further consideration as to their overall consistency with the *Working Principles for Risk Analysis for Application within the Framework of Codex* and with one another, especially with respect to risk management.

2. Draft CCFAC Policy for Exposure Assessment of Contaminants and Toxins in Foods or Food Groups

U.S. Position: The United States supports the Policy for Exposure Assessment of Contaminants and Toxins in Foods or Food Groups, as developed by the Codex Committee on Food Additives and Contaminants.

Proposed Amendments to the Procedural Manual

3. Draft Revised Criteria for the Establishment of Work Priorities

United States position: Given that the Commission will be discussing a potentially major realignment of Codex committees and their mandates and that recommendations under consideration significantly reduce emphasis on commodity standards, the United States questions whether this is the appropriate time for Codex to be adopting revised criteria for the establishment of work priorities. The U.S. would postpone discussion of this topic until

after there are some decisions on the revision of committee structures and mandates. The revisions to the criteria that are being considered by this Commission are minor, yet it is clear that Codex must do a much better job of managing its work program by having a stronger set of criteria and then adhering to those criteria. Criteria more in alignment with the strategic objectives of Codex are needed.

At its 25th (extraordinary) Session, the Commission agreed that the current mandate of Codex should be retained (ALINORM 03/25/5, paragraph 14). The Commission reasserted that the first priority in the development of Codex standards was the protection of consumers' health and food safety (ALINORM 03/25/5, paragraph 15).

However, the current criteria for establishment of work priorities are not necessarily aligned with the mandate or priority of Codex, as determined by the Commission. Instead many of the criteria speak of 'impediments to trade', 'patterns of trade', 'volume of production and consumption', 'market potential, etc. The U.S. believes that the realignment of Codex committee structure and mandates presents an opportunity for Codex to revise the criteria and make them consistent with the mandate and priority of Codex. Further, the U.S. believes that there is no need for separate criteria for general subjects and commodities. All proposals for work should be measured against the same scale. The U.S. proposes the following set of criteria for the Commission's consideration:

Criteria for the Establishment of Work Priorities

General criterion:

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

The work proposed:

- (a) Addresses an identified global or regional food safety problem;
- (b) Provides useful guidance to developing countries to enhance food safety systems to meet global market demands;
- (c) Addresses recurring safety issues related to specific food products or food production systems;
- (d) Addresses diversification in national legislations that has the potential to compromise consumer safety;
- (e) Addresses recurring technical or sanitary problems related to importing and exporting food products;
- (f) Can assist in the evaluation and safe use of new food safety technologies;
- (g) Addresses a specific product or commodity for which the volume of global trade (definition of volume required) and diversification of national legislations has resulted, or may result, in unfair trade practices, consumer deception, or consumer confusion;
- (h) Addresses a situation in which diversified national legislations have resulted in impediments to trade;
- (i) Addresses commodities for which appropriate standards have not yet been developed by other international organizations.

4. Draft Guidelines on Physical Working Groups and the Draft Guidelines on Electronic Working Groups

United States Position: The United States supports the adoption, by the Commission, of the Guidelines on Physical Working Groups and the Guidelines on Electronic Working Groups.

5. Draft Revised Principles concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission

United States Position: The United States supports the adoption, by the Commission, of the Revised Principles concerning the Participation of International Non-Government Organizations in the Work of the Codex Alimentarius Commission.

6. Draft Guidelines for Cooperation with International Intergovernmental Organizations

United States Position: The United States supports the adoption, by the Commission, of the Guidelines for Cooperation with International Intergovernmental Organizations.

7. Draft Amendment to the Rules of Procedure on the Right to Address the Chair (para. 109, Appendix IX)

United States Position: The United States supports the adoption of the amendment to the Rules of Procedure on the right to address the chair.

However, the U.S. notes that Paragraph 129 of the *Joint FAO/WHO Evaluation of the Codex Alimentarius Commission and Other FAO and WHO Work on Food Standards* concluded that “steps should be undertaken by Codex to tighten its checks on credentials and issue a guideline that delegation heads should clearly and formally represent the member government.” Responses to the questionnaire circulated by the evaluation team indicated that it was often unclear in Codex sessions whether an individual was speaking on behalf of the member or was expressing a personal opinion. The decision by the 26th CAC to consider a rule on the right to address the chair does not address the issue that was under discussion in the Evaluation Report. Responses to the evaluation questionnaire indicated that there had been instances in which representatives of NGOs headed government delegations and promoted a particular interest and blocked the progress of committee work. In some cases, the positions taken by these representatives did not represent the position of the member. Codex should address this situation by requiring credentialing of delegations through the Codex Contact Points by notification of acceptance of invitations to sessions.

Proposed Amendments to the Procedural Manual Resulting from the Abolition of the Acceptance Procedure

In response to CL 2005/17-GP, Part A, Proposed Amendments to the Procedural Manual Resulting from the Abolition of the Acceptance Procedure, the United States offers the following comments:

The U.S. believes that the formal notification and acceptance procedures for Codex standards, contained in the Procedural Manual, are no longer necessary and have been superseded as a practical matter by notification obligations under the WTO Agreements. Further, these provisions have fallen into disuse and have not been followed in practice by Codex member countries for a long time. Accordingly, the U.S. supports deletion of provisions concerning acceptance and notification, with the following exception:

The U.S. supports the position stated by the Delegation of Australia at the 22nd Session of the Codex Committee on General Principles, namely that Paragraph 4 of the current “*Guidelines for the Acceptance Procedures for Codex Standards*” is not a statement about acceptance, but rather a statement of a fundamental principle of Codex standards. Therefore, the U.S. would retain paragraph 4, slightly edited to read:

Every country’s laws and administrative procedures contain provisions which it is essential to understand and comply with. It is usually the practice to take steps to obtain copies of relevant legislation and/or to obtain professional advice about compliance. The Codex Standard will not normally deal with general matters of human, plant or animal health or with trade marks. The language which is required on labels will be a matter for national legislation and so will import licenses and other administrative procedures.

The U.S. would move this paragraph to become Paragraph 4 in the section “*General Principles of the Codex Alimentarius*”, with a heading:

THE CODEX ALIMENTARIUS: NOT A SUBSTITUTE FOR, OR ALTERNATIVE TO, REFERRING TO NATIONAL LEGISLATION