

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD  
HEALTH  
ORGANIZATION



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**ALINORM 04/27/33A**

## **JOINT FAO/WHO FOOD STANDARDS PROGRAMME**

### **CODEX ALIMENTARIUS COMMISSION**

Twenty-seventh Session  
Rome, 28 June - 3 July 2004

### **REPORT OF THE TWENTIETH SESSION OF THE CODEX COMMITTEE ON GENERAL PRINCIPLES**

Paris, France, 3 – 7 May 2004

Note: This document incorporates Circular Letter CL 2004/18-GP

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**CX 4/10**

**CL 2004/18-GP  
May 2004**

**TO:** - Codex Contact Points  
- Interested International Organizations

**FROM:** - Secretary, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, c/-FAO, 00100 Rome, Italy

**SUBJECT:** **Distribution of the Report of the 20th Session of the Codex Committee on General Principles (ALINORM 04/27/33A)**

## **A. MATTERS FOR ADOPTION BY THE 27<sup>TH</sup> SESSION OF THE CODEX ALIMENTARIUS COMMISSION**

### **Proposed Amendments to the Procedural Manual**

1. *General Criteria for the Selection of Single-Laboratory Validated Methods* (to be included after the *General Criteria*) and Amendments to the *Analytical Terminology for Codex Use* (paras. 12-14, Appendix II)
2. Proposed Definitions of Risk Analysis Terms Related to Food Safety (para. 20, Appendix II)
3. Proposed Amendments to Part 2. Critical Review of the Proposed Amendment to the Procedures for the Elaboration of Codex Standards and Related texts in ALINORM 04/27/33A (para. 30, Appendix II)
4. Proposed Amendments to the *Rule VIII.5 – Observers of the Rules of Procedure* (para. 36, Appendix III)
5. Proposed Definition of Traceability/Product Tracing (para. 96, Appendix IV)

Governments and international organizations wishing to submit comments on the above amendment should do so in writing to the Secretary, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, c/-FAO, Viale delle Terme di Caracalla, 00100 Rome, Italy **before 15 June 2004**.

## **B. REQUEST FOR COMMENTS AND INFORMATION**

6. Proposed Draft Revised Code of Ethics for International Trade in Foods (paras. 77-78, Appendix V).

The Circular Letter asking for comments at Step 3 will be sent after the 27<sup>th</sup> Session of the Commission in the light of the advice provided by the Commission, as agreed by the Committee.

## SUMMARY AND CONCLUSIONS

The summary and conclusions of the 20<sup>th</sup> Session of the Codex Committee on General Principles are as follows:

### **Matters for adoption by the Commission:**

The Committee

- endorsed the following amendments to the Procedural Manual (Appendix II): *General Criteria for the Selection of Single-Laboratory Validated Methods* and amendments to the *Analytical Terminology for Codex Use* (paras. 12-14); additional Definitions of Risk Analysis Terms Related to Food Safety (para. 20); and the amendment to the Procedures for the Elaboration of Codex Standards and Related text (para. 30);
- agreed to forward to the Commission a Proposed Amendment to *Rule VIII. Observers of the Rules of Procedure* (para. 36, Appendix III);
- agreed to propose a definition of traceability/product tracing for inclusion in the *Definitions* in the Procedural Manual (para. 31, Appendix IV);
- agreed to initiate new work on the revision of the definition of “food” in the Procedural Manual (para. 82 );
- agreed to send a Circular Letter, with the concurrence of the Commission, to governments concerning the respective roles of the Member of the Executive Committee elected on a geographical basis and of the Coordinator, for consideration by Regional Committees and subsequently by the 28<sup>th</sup> Session of the Commission (paras. 118-121).

### **Other matters of interest to the Commission:**

The Committee

- agreed to return the Proposed Draft Working Principles for Risk Analysis for Food Safety to Step 3 for further comments (para. 42);
- agreed to return the Proposed Draft Revised Code of Ethics for International Trade in Foods to Step 3 for further comments, subject to the advice of the Commission (paras. 77-78, Appendix V);
- agreed to consider a redrafted version of the Guidelines for Cooperation between the Codex Alimentarius Commission and International Intergovernmental Organizations in the elaboration of Codex standards and related texts at its next (extraordinary) session (para. 109);
- agreed to consider revised *Principles concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission* at its next (extraordinary) session (para. 120);
- agreed that its next (extraordinary) session would consider the following new items: the clarification of the duration of the term of the Members of the Executive Committee (para. 127); the relevance of the acceptance and notification procedures (para. 132); and the interpretation of the term “delegate” for the purpose of Rule VI.1 of the Rules of Procedure (para. 138).

## TABLE OF CONTENTS

Opening of the Session .....	1- 2
Adoption of the Agenda .....	3
Matters referred by the Codex Alimentarius Commission and other Codex Committees .....	4-30
Proposed Amendment to Rule VIII.5 - Observers of the Rules of Procedure .....	31-36
Proposed Draft Working Principles for Risk Analysis for Food Safety .....	37-43
Proposed Draft Revised Code of Ethics for International Trade in Foods.....	44-84
Consideration of Traceability/Product Tracing.....	85-96
Guidelines for Cooperation with International Intergovernmental Organizations .....	97-109
Review of the Principles Concerning the Participation of Intergovernmental Non-governmental Organizations in the Work of the Codex Alimentarius Commission.....	109-120
Other Business, Future Work and Date and Place of the Next Session .....	121-147

## LIST OF APPENDICES

		<b>Pages</b>
<b>Appendix I</b>	List of Participants	18
<b>Appendix II</b>	Proposed Amendments to the Procedural Manual	37
<b>Appendix III</b>	Proposed Amendment to the Rules of Procedure: Rule VIII.5. Observers	39
<b>Appendix IV</b>	Proposed Definition of Traceability/Product Tracing	40
<b>Appendix V</b>	Proposed Draft Revised Code of Ethics for International Trade in Foods	41

## INTRODUCTION

1) The Codex Committee on General Principles held its Twentieth Session in Paris, France, from 3 to 7 May 2004 at the kind invitation of the Government of the French Republic. The Session was chaired by Professor Michel Thibier, Director-General of Education and Research, Ministry of Agriculture, Food, Fisheries and Rural Affairs. The session was attended by 218 delegates representing 57 Members of the Commission and 26 international organizations. A full list of participants, including the Secretariat, is attached as Appendix I.

## OPENING

2) The session was opened by Mr. Verdier, Assistant Cabinet Director, who welcomed participants on behalf of Mr. Christian Jacob, Delegate Minister of Small and Medium Industries, Trade, Craft, Professions and Consumers Affairs. Mr. Verdier welcomed the participants and emphasized the difficult task of Codex to protect the health of the consumers and ensure fair practices in international food trade. He underlined the importance of the work of the Codex Committee on General Principles as regards the development of the Guidelines on risk analysis for food safety, the Code of Ethics for International Trade in Food and the definition on traceability/product tracing of foodstuffs, to achieve the objectives of limiting unnecessary barriers to trade and enhancing consumers confidence. He also emphasized that on-going reforms within Codex should increase efficiency, transparency and participation in the work of the Commission. Stressing the heavy agenda of this session, Mr. Verdier wished the delegates all success in their work.

## ADOPTION OF THE AGENDA (Agenda Item 1)

3) The Committee noted CRD 2 presented by the delegation of the European Community on the division of competence between the European Community and its Member States in accordance with Rule II.5 of the Rule of Procedure of the Codex Alimentarius Commission. The Committee agreed to consider Agenda Items 4 "Proposed Draft Working Principles for Risk Analysis for Food Safety" before Agenda Items 3 "Proposed Amendment to Rule VIII.5 (Observers) of the Rules of Procedure. The Committee adopted the Provisional Agenda as presented in document CX/GP 04/20/1 as the Agenda for the Session.

## MATTERS REFERRED BY THE CODEX ALIMENTARIUS COMMISSION AND OTHER CODEX COMMITTEES (Agenda Item 2)<sup>1</sup>

### Executive Committee

4) The Delegation of Malaysia noted that the 53<sup>rd</sup> Session of the Executive Committee had asked FAO and WHO to initiate discussions with the Office International des Epizooties (OIE) as to how to foster and oversee the relations between Codex and OIE, and expressed the view that the Executive Committee could provide advice on this matter but that any decision should be taken by the Commission.

5) The Chairperson of the Commission provided updated information on cooperation with OIE, and in particular the work of the OIE Working Group on Animal Production Food Safety; the forthcoming ratification of the OIE/FAO and OIE/WHO Agreements by the governing bodies of these organizations; and the conclusions of the FAO/OIE/WHO Workshop on Non-Human Use of Antimicrobials and Antimicrobial Resistance, including the proposal for the establishment of a Codex/OIE Task Force.

6) The Committee noted that cooperation with OIE would be considered from a general perspective under Agenda Item 7 – Guidelines for Cooperation with International Intergovernmental Organizations (see also paras 97 to 109)

### Provision of Scientific Advice

7) The Representative of WHO, also speaking on behalf of FAO, informed the Committee that the executive summary and the recommendations of the FAO/WHO Workshop on the Provision of Scientific Advice (WHO headquarters, 27-29 January 2004), had been circulated for comments to member states and interested international organizations, and that a summary of the comments would be submitted to the Commission.

8) The FAO/WHO Planning Meeting held on 29-30 April 2004 had agreed that FAO and WHO would continue to follow up on the recommendations concerning procedures and management of the provision of

<sup>1</sup> CX/GP 04/20/2, CX/GP 04/20/2-Add.1, CX/GP 04/20/2-Add.2, CRD 5 (comments of ISMCF), CRD 6 (comments of the EC), CRD 7 (comments of Malaysia), CRD 8 (comments of the United States)

scientific advice, while recommendations related to developing country participation most likely would be the subject of a separate workshop. FAO and WHO had the intention to convene an intergovernmental meeting at the end of the consultative process before submitting final recommendations to the Directors-General and governing bodies of FAO and WHO.

### **Committee on Food Import and Export Inspection and Certification Systems**

9) The Committee noted that following the discussion on traceability/product tracing in the Committee on Food Import and Export Inspection and Certification Systems, a preliminary set of principles on traceability/product tracing had recently been circulated for comments and consideration by the next session of that Committee.

### **Committee on Methods of Analysis and Sampling**

#### Single laboratory validated methods of analysis

10) The Committee recalled that the Committee on Methods of Analysis and Sampling had proposed General Criteria for the Selection of Single-Laboratory Validated Methods of Analysis in order to allow the use of such methods especially for multi-residue analysis of pesticide residues.

11) Several delegations proposed to delete the reference to “OECD Principles of Good Laboratory Practice” in paragraph (ii). The Committee noted that the CCMAS had discussed the possibility to refer generally to “good laboratory practices” with the understanding that such practices were defined for some specific types of analysis in the framework of Codex and that such general wording would not significantly alter the nature of the recommendations.

12) The Committee agreed to refer to “Principles of Good Laboratory Practice” and endorsed the General Criteria with this amendment.

#### Analytical Terminology

13) The Committee endorsed the proposed Amendments to the Analytical Terminology for Codex Use and noted that the revision of analytical terminology was an ongoing process in the CCMAS.

14) The proposed amendments to the Procedural Manual are presented in Appendix II.

### **Committee on Food Hygiene**

15) The Committee recalled that while discussing the Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Management, the Committee on Food Hygiene had developed definitions for Food Safety Objective, Performance Objective, and Performance Criterion. The Committee had agreed to forward these definitions to the Committee on General Principles for endorsement and subsequent adoption by the Commission, and inclusion in the Procedural Manual in the section on Definitions of Risk Analysis Terms Related to Food Safety.

16) The Committee recognized the importance of these definitions for the work of the Committee on Food Hygiene and discussed whether they should be used as general definitions that would also apply to other areas of risk analysis.

17) Several delegations supported the endorsement of the definitions in view of their importance for the work of the Committee on Food Hygiene and as general Codex definitions.

18) Several other delegations, while not objecting to the development of general definitions, indicated that they needed more time to consider carefully their content and possible implications for Codex work on risk analysis as a whole. These delegations also noted that the definitions had been considered only by the Committee on Food Hygiene and proposed to submit them for review by other Committees involved in food safety and risk analysis issues.

19) It was also suggested to limit the scope of the definitions to microbiological contamination at this stage, with the understanding that the Committee would consider further the establishment of general definitions in the light of the advice that might be provided by other relevant committees.

20) After some debate, the Committee agreed to forward the definitions for adoption on an interim basis to the 27<sup>th</sup> Session of the Commission (see Appendix II).

21) The Committee also agreed to forward the definitions to the Committee on Pesticide Residues, the Committee on Food Additives and Contaminants, the Committee on Residues of Veterinary Drugs in Foods,

the Committee on Meat Hygiene, and the Committee on Food Import and Export Inspection and Certification Systems, with the understanding that the Committee on General Principles would reconsider the definitions if required in the light of the advice of these Committees at its 23<sup>rd</sup> Session in 2006.

### **Committee on Food Additives and Contaminants**

22) The Committee considered the *Draft Risk Analysis Principles Applied by the Committee on Food Additives and Contaminants* and the *Draft Policy for Exposure Assessment* forwarded by the Committee on Food Additives and Contaminants for endorsement.

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

23) Several delegations pointed out that it was not possible to consider the endorsement of this document at the present session due to its late availability, and noted that it required careful consideration in view of its importance. Some delegations also indicated that the role of the Committee on General Principles was to ensure consistency between risk analysis policies applied by Codex Committees and the *Working Principles for Risk Analysis for Application in the Framework of the Codex Alimentarius*.

24) The Delegation of Malaysia, referring to its written comments, proposed to amend the reference to other legitimate factors in paragraphs k) and q) to ensure consistency with the General Decisions of the Commission; to clarify the incidence of such factors on the selection of risk management options; and to address specifically the needs of developing countries.

25) The Delegation of Thailand, referring to its written comments, expressed the view that the document did not follow the structure of the adopted *Working Principles*, as the elements pertaining to risk assessment, risk management and risk communication were not clearly identified.

26) The Delegation of Chile, referring to the new task of the Committee to review the draft standards on risk analysis from other committees, highlighted the necessity of establishing procedures and guidelines for such review in order to facilitate the work of the Committee.

27) The Committee recognized that it was not possible at this stage to endorse the Draft Risk Analysis Principles as some substantial comments had been made and delegations needed more time to consider the text in detail. The Committee agreed to consider further the endorsement of the Draft Risk Analysis Principles at the 21<sup>st</sup> (Extraordinary) Session of the Committee as this would allow to return the text to the CCFAC for further consideration if required.

28) The Committee noted that due to the annual sessions of the Commission the coordination of work between Codex Committees called for more prompt actions at both national and international level and also noted the wish of some delegations to be informed, preferably by electronic means, of any addition to particular agenda items.

#### Draft Policy for Exposure Assessment

29) The Committee noted that the situation of the *Draft Policy for Exposure Assessment* was similar to that of the *Draft Risk Analysis Principles* and agreed to defer its consideration for endorsement until the 21<sup>st</sup> (Extraordinary) Session of the Committee.

#### Amendment to the Critical Review

30) The Committee endorsed the amendment proposed to paragraph 4 of the Critical Review proposed by the 19<sup>th</sup> (Extraordinary) Session of the Committee (ALINORM 04/27/33, Appendix III) to the effect that “methods of analysis and sampling plans” related to the General Standard for Food Additives and the General Standard for Contaminants and Toxins in Foods should be subject to the procedures established by the Committees concerned and endorsed by the Commission (see Appendix II).

### **PROPOSED AMENDMENT TO RULE VIII. 5 (OBSERVERS) OF THE RULES OF PROCEDURE (Agenda Item 3)<sup>2</sup>**

31) The Committee considered documents CX/GP/04/20/3 “*Proposed amendment to Rule VIII.5 (Observers) of the Rules of Procedure*” and CX/GP/04/20/3 Add.1 reproducing the “*Report of the Seventy-sixth Session of the FAO Committee on Constitutional and Legal Matters*”. The documents were introduced by the representative of the Legal Counsel of FAO. He recalled that the Commission, at its 26<sup>th</sup> session, had taken a

<sup>2</sup> CX/GP 04/20/3; CX/GP 04/20/3 Add.1; CRD 3 (comments of the Philippines); CRD 7 (comments of Malaysia)

number of decisions regarding participation of international non-governmental organizations in the work of the Commission, including a request that Rule VIII.5 of the Rules of Procedure be reviewed. At that time, the Legal Counsels of FAO and WHO were requested to prepare a preliminary paper on the matter for review by the Committee on General Principles. At its Nineteenth (Extraordinary) Session, the Committee considered this preliminary paper and endorsed an option whereby the Executive Committee would be entrusted with advisory functions with respect to the granting, by the Directors-General of FAO and WHO, of observers status to international non-governmental organizations. On that occasion, the Committee was informed that, in the particular case of FAO, the Director-General of FAO would seek the views of the FAO Committee on Constitutional and Legal Matters on the proposed amendments.

32) The Committee considered the wording of the amendments to Rule VIII.5 presented in document CX/GP/04/20/3 Add. 1, and concurred with the proposal that a distinction be made between intergovernmental organizations, on the one hand, and international non-governmental organizations, on the other hand, set out respectively in proposed Rules VIII.5 and VIII.6.

33) The Committee noted the conclusion of the FAO Committee on Constitutional and Legal Matters that proposed Rule VIII.6 of the Rules of Procedure, whereby the Executive Committee would be entrusted with advisory functions in respect of relations with international non-governmental organizations and the granting of observer status to such organizations by the Director-General of FAO or WHO, as well as its underlying approach, were consistent with the procedures governing the relationship between FAO and international non-governmental organizations.

34) The delegation of Brazil, supported by other delegations, requested that proposed Rule VIII.5 of the Rules of Procedure should refer explicitly to “*international*” intergovernmental organizations. The representative of the Legal Counsel of FAO considered that, while the qualification as “international” of intergovernmental organizations appeared to be redundant and, in addition, the Basic Texts of the parent organizations referred merely to intergovernmental organizations, the use of the words “*international intergovernmental organizations*” in proposed Rule VIII.5, as well as in Codex work and practice, would not be inconsistent with such Basic Texts. The Committee agreed that in proposed Rule VIII.5 reference be made to “*international*” intergovernmental organizations.

35) The delegation of Malaysia, supported by the delegation of Thailand, requested that relations between the Codex Commission and international non-governmental organizations be handled by the Director-General of FAO or WHO on the advice of the Executive Committee, “*and after approval by the Codex Alimentarius Commission*” . The representative of the Legal Counsel of FAO expressed the view that, given the status of the Codex Commission as a subsidiary body of FAO and WHO, such clause entrusting the Commission with direct authority on the matter would not be in conformity with the procedures of the parent organizations, at least as far as FAO is concerned. However, he further clarified that, in keeping with the purpose and the content of the proposal of the Joint FAO/WHO Evaluation of the Codex Alimentarius and Other FAO and WHO Work on Food Standards that the Executive Committee be given a role in the process of granting observer status to international non-governmental organizations, the Directors-General of FAO and WHO would take duly and meaningfully into consideration the advice provided by the Executive Committee, under proposed Rule VIII.6 of the Rules of Procedure.

#### **Status of the Proposed Amendment to Rule VIII. 5 (Observers) of the Rules of Procedure**

36) The Committee agreed to recommend to the Commission that Rule VIII of the Rules of Procedure be amended as agreed. The Proposed Amendment is presented in Appendix III.

#### **PROPOSED DRAFT WORKING PRINCIPLES FOR RISK ANALYSIS FOR FOOD SAFETY (Agenda Item 4)<sup>3</sup>**

37) The Committee noted that the Codex Secretariat had redrafted the Proposed Draft Principles in the document CX/GP 04/20/4, taking into account the discussions held at the 18<sup>th</sup> session of the Committee and the comments submitted in CX/GP 03 /4. The Committee also noted that the Proposed Draft Principles contained a number of provisions for which consensus was yet to be arrived at, including the issue of whether and how the concept of precaution could be applied in risk management by governments.

<sup>3</sup> CX/GP 04/20/4, CX/GP 04/20/4 Add.1, CRD 4 (comments of Thailand), CRD 9 (comments of India) and CRD 14 (Information from FAO and WHO on the Draft Food Safety Risk Analysis Manual)



38) Given the diversity of the views of governments expressed in regard to the Proposed Draft Principles, the Committee decided to hold a general discussion namely on 1) whether work should proceed on the development of risk analysis principles intended for governments; 2) whether the format of the document as basic principles should be retained; and 3) whether the principles applicable within Codex could be used as a basis for discussion.

39) The representative of FAO, speaking on behalf of FAO and WHO, informed the Committee that a joint FAO/WHO publication entitled "Food Safety Risk Analysis – An Overview and Framework Manual" was under development in response to numerous requests from Member countries of the organizations. The Manual was intended to provide essential background information and guidance for national regulators and other officials to assist in their capacity building efforts and included principles and concepts already adopted by Codex for application at the international level as well as some case studies and a set of reference materials. He further stated that the Manual, like other tools developed by FAO and WHO, was not subject to review by governments and was expected to be issued before the end of 2004. The Manual would however be reviewed by FAO and WHO, once the work currently undertaken by CCGP was completed, to ensure consistency with the final Codex text.

40) A number of delegations and observers expressed the view that the development of the principles for risk analysis to be applied by governments should continue in the Committee, in accordance with the decision taken by the Commission. They stressed the usefulness of a guidance document in assisting countries in their effort to apply risk analysis principles at the national level, especially in the context of the SPS Agreement of WTO, which required WTO Members to conduct risk assessments, as appropriate, taking into account the techniques developed by relevant international organizations. The need for countries to assess risks in situations where no Codex text existed was also highlighted. These delegations and observers further stated that the FAO/WHO Manual would not have the same legal status as a Codex text and thus would not be a substitute for Codex on-going work in this area. Many of these delegations and observers were of the view that the current format based on the Working Principles for Risk Analysis for Application in the Framework of the Codex Alimentarius provided an adequate structure and basis for the document under development.

41) Several other countries stated that the FAO/WHO Manual might provide sufficient guidance on risk analysis to governments in the area of food safety and that therefore a Codex document might not be necessary. They were of the view that the content of the Manual should fully be taken into account, and inconsistencies between the two documents should be avoided, if the Committee chose to proceed with the development of the Proposed Draft Principles. They therefore considered it premature, at this stage, to further elaborate the Proposed Draft Principles.

42) The Representative of WTO stated that risk assessment guidance for governments had already been developed by IPPC and OIE and that it would be helpful if Codex could provide risk analysis guidance in the area of food safety to governments. Such guidance would also facilitate the judgment as to whether a country had properly conducted risk assessments as required by the SPS Agreement before applying a risk management measure.

#### **Status of the Proposed Draft Working Principles for Risk Analysis for Food Safety**

43) The Committee decided to return the Proposed Draft Working Principles to Step 3 and request further government comments on the current document CX/GP 04/20/4. These comments, together with the comments already received would be reviewed by a meeting of a Working Group to be held in conjunction with the 21<sup>st</sup> session of the Committee in November 2004, with a view to preparing a revised version of the Principles. The Working Group would be co-chaired by Canada and Argentina and would be open to all governments and observers wishing to participate. The Committee would at its 22<sup>nd</sup> session consider the Proposed Draft Working Principles at Step 4, together with all the comments received, taking into account the outcome of the Working Group.

## **PROPOSED DRAFT CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD (Agenda Item 5)<sup>4</sup>**

44) The Committee recalled that its last session had returned the Proposed Draft Code to Step 3 for redrafting by the Secretariat in the light of the discussions held at the session and the written comments received. The Secretariat indicated that Articles 4, 5 and 6 had been reordered according to the nature of the issues addressed, as agreed by the Committee, and noted that a number of questions still remained to be addressed.

45) The Committee recalled that last session had considered sections 1 to 4.3 and agreed to consider the text from Article 4.4 onwards. Due to time constraints it was not possible to review the sections that had been considered in previous sessions and they remained unchanged. The Committee considered the text section by section from Article 4.4 and made the following comments and amendments.

### **Article 4 - General Principles**

46) In section 4.4 the Committee agreed to refer to “relevant” standards for clarification purposes and discussed whether national food standards should be established and enforced “through harmonisation with” or “taking into account”. Many delegations supported the second alternative as it allowed for more flexibility, while some delegations supported the reference to “harmonisation” as this term was used in the framework of the WTO. The Delegation of Argentina proposed to indicate that national food standards should be “based on Codex texts” as this terminology was consistent with the SPS and TBT Agreements, which was also noted by the Representative of the WTO. The Committee could not come to a conclusion and agreed to retain the terms “taking into account” and “based on” in square brackets for further consideration.

47) The Delegation of Australia, supported by some delegations, proposed to replace the term “food standards”, “national regulations” and “food legislation” with “national food regulations” in order to harmonize the terminology used throughout the text, in view of the definition of “standards” under the TBT Agreement. The Committee noted that this would require further consideration when other relevant sections would be discussed.

48) In section 4.5, some delegations and observers questioned the reference to the SPS and TBT Agreements since not all Codex members were members of the WTO. Several other delegations supported its retention as it would extend the provisions of the Agreements to all Codex members. The first sentence was therefore retained with the addition of “where applicable” at the end to reflect that the WTO Agreements applied only between WTO members. Several delegations expressed the view that the second sentence implied that food produced in developing countries was not safe and the Committee agreed to delete that sentence.

49) The Committee agreed to reword section 4.6 on the basis of the proposal from the Delegation of Brazil to reflect that difficulties in ensuring food safety might occur in all countries and that assistance programmes should be facilitated in this case.

### **Article 5 – Requirements for Food in International Trade**

50) The Committee agreed that the provisions of section 5.1 applied to food that is “traded internationally” and not only “exported” and amended the text accordingly. A reference to “relevant” standards was added for consistency with other sections. The Committee considered the proposal from the Delegation of India to require that standards should be based on science; several delegations however pointed out that regulations related to ensuring fair trade practices were not necessarily based on science.

51) After an exchange of views, the Committee agreed to redraft the text of 5.1 b) as proposed by the Delegation of the United States, to the effect that “food standards and safety requirements of importing countries should be transparent and available to exporting countries” as this was a general requirement applicable to all import and export situations. The Committee also clarified that only the provisions “regarding food” in bilateral or multilateral agreements were relevant to Article 5.1(c).

52) In section 5.2, the Committee agreed to replace “hazard” with “risk” for clarification purposes, and a similar change was made in section 6.2. The Committee discussed extensively the conditions under which a country could export food that did not correspond to its national legislation. The Delegation of India pointed

<sup>4</sup> CX/GP 04/20/5, CX/GP 04/20/5-Add.1 (comments of Argentina, Cuba, European Community, Ghana, Mexico, CI, IBFAN, ISDI, 49P), CX/GP 04/20/5-Add. 2 (definition of food), CX/GP 04/20/5-Add.3 (comments of Brazil, United States), CX/GP 04/20/5- Add. 4 (comments of Canada), CRD 3 (comments of the Philippines), CRD 4 (comments of Thailand), CRD 10 (comments of India)

out that it was unethical for a country to export food that did not meet its national regulations for food safety and quality and proposed to make an exception only if the food complied with Codex standards. This view was supported by several delegations and the Observer from Consumers International.

53) In reply to the question from India, several other delegations pointed out that this provision did not address only safety and quality requirements but also regulations concerning labelling or presentation, that often differed from one country to another without affecting the safety and quality of the foods concerned. These delegations also pointed out that such food was exported only in accordance with the regulations of the importing country. The Committee could not reach a consensus and agreed to retain the section in square brackets for further consideration.

54) The Committee discussed extensively section 5.3 describing the types of foods that should not be in international trade. The Delegation of Argentina, supported by several delegations, expressed its objections to the entire section as the criteria proposed were too broad or ill-defined and did not take into account that the adequate level of protection might differ according to member countries; and the proposed text was inconsistent with the provisions of the SPS and TBT Agreements.

55) The Observers from OIV and ICGMA questioned the reference to substances that renders food “injurious to health” since this provision might be interpreted in a way that would prevent the marketing of several foods such as alcoholic beverages and therefore create unjustified barriers to trade.

56) Several other delegations and observers expressed the view that this section was essential as it described all unethical practices that might occur in food trade, and was especially relevant in order to protect consumers’ health and prevent unfair trade practices. These delegations proposed to reword or clarify the criteria that might create confusion but strongly objected to its deletion.

57) The Delegation of India, supported by the Observer from Consumers International, proposed that, in section 5.3 f), the remaining shelf life should not be less than 60%, on its arrival at the port of entry in the importing country, in order to prevent the export of food near their expiry dates or “best before” dates and stressed the importance of this problem in international trade, especially from a developing country perspective. Other delegations pointed out that the establishment of a specific percentage might cause problems due to the different nature of the products concerned. The Delegation of India also proposed to add a reference to “idealising” in section 5.3 d) on labelling and presentation.

58) The Committee could not come to a consensus on section 5.3 and agreed to retain the entire section in square brackets for further consideration.

59) The Delegation of Cameroon expressed its concern with the current text of section 5.4 since the understanding of raw or semi-processed foods may differ from one country to another. The Committee however recalled that the last session had redrafted the section (previously included in Article 4) in order to make it generally applicable.

60) Some delegations and observers proposed to clarify section 5.5 to refer to “young children”, while stressing the importance of provisions related to foods for infants, young children and other vulnerable groups in the present Code. The Representative of WHO and the Secretariat recalled the relevance of these provisions from the point of view of public health and noted that the reference to “young children” was consistent respectively with the WHO Global Strategy on Infant and Young Child Feeding and with existing Codex standards, and the text was amended accordingly.

61) The Delegation of India, supported by the Observer from Consumers International, proposed to include an additional paragraph (5.6) to the effect that food and food products containing ingredients derived from genetically modified organisms should be labelled at such, and stressed the importance of such information to ensure transparency in international trade. The Committee however recalled that labelling issues were the responsibility of the Committee on Food Labelling and that the labelling of such foods was currently under consideration in that Committee, and that no consensus had been reached so far on this question. The proposal was therefore not accepted.

62) The Delegation of the United States, supported by other delegations, expressed the view that the Code should not be used to develop specific provisions that were addressed by other Codex Committees and stressed the need for a general discussion on the objectives and scope of the Code.

## **Article 6 – Implementation**

63) In section 6.1 concerning the action taken by the importing country in case of non compliance, some delegations raised the following issues: the relevance of addressing the destruction of a consignment at the import stage, in addition to rejection; the definition of unfair trade practices; and the relevance of this section as related to the SPS and TBT Agreements. The Delegation of Cameroon proposed to develop further the conditions in which the rejection of food may occur. After an extensive discussion, the Committee agreed to use the wording of Article 5 of the *Guidelines for the Exchange of Information between Countries on Rejections of Imported Food* (CAC/GL 25-1997) concerning the possible reasons for rejection. It was also agreed that exchange of information should be in accordance with the above *Guidelines* and that the action taken by national authorities should take into account the relevant texts developed by the CCFICS and adopted by the Commission.

64) The Committee agreed to clarify section 6.2 on rejection and re-export, as proposed by the Delegation of India, while retaining the notion that food representing a risk to health should not be re-exported.

65) The Committee agreed to add a new section 6.3 concerning the information to be provided on the action taken following rejection or retention of a consignment of food, taking into account the *Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*.

## **Article 7 – Responsibilities for Implementation**

66) The Committee agreed to reorganize Article 7.1 as proposed by the Delegation of Canada in order to achieve a better balance between the responsibilities of exporting and importing member countries, and to include the legislative and enforcement responsibilities of importing countries in relation to the provisions of Articles 4 and 6. The Committee also agreed that governments should also work with consumers to ensure that the General Principles in Article 4 are taken into account, and amended the text accordingly. The reference to relevant Codex texts on inspection and certification systems was inserted to replace the current paragraph 7 b) and the current section 7.2 was therefore deleted.

67) The Committee noted the proposal of the Observer from IBFAN, referring to its written comments, to insert new text to address more specifically the responsibilities of all those concerned with international trade as regards the implementation of the Code.

68) In section 7.3 the Committee agreed to replace governments with “member countries” for consistency with other sections and to add a reference to “all those engaged in international trade” in order to ensure general application of the Code.

## **Article 9 - Exchange of Information**

69) The Committee agreed to refer to public health rather than human health, as proposed by the Delegation of Mali, and for consistency with the amended text of Article 6. The Chairperson noted that Article 1 referred to “consumers’ health” and the Committee noted that the relevance of specific terms used in each section may require further review. The Committee also agreed that the application of the Code was not restricted to food “offered for sale” but covered food “exported to or distributed in” countries.

70) The Observer from 49P noted that the word “fraud” is narrower than the second element of the Codex mandate to “ensure fair practices in the food trade” and suggested that the wording from the mandate should substitute that term in order to cover unintentional action as well.

## **General Discussion**

71) Several delegations pointed out that, although some progress had been made at the current session, many sections remained in square brackets and several substantial issues had to be addressed before the Code could be forwarded to the Commission at Step 5. The Committee therefore agreed to return the Proposed Draft Code to Step 3 for further comments and consideration at the next session.

72) The Committee discussed the proposal of the Chairperson to ask the view of the Commission on the scope of the Code, especially whether it should focus on ethics or include also trade issues, and to ask for guidance on the specific provisions that should be included in the Code.

73) Some delegations pointed out that there was still some confusion as to the scope of the Code and questioned the emphasis on issues related to the WTO Agreements and to import and export inspection and certification, that were already addressed by the Codex texts developed by the CCFICS. These delegations

proposed to develop a shorter version of the Code that would address essentially ethical issues and their application to international food trade.

74) Some delegations pointed out that the advice of the Commission would be useful in order to ensure that the Code did not consider issues that were outside its mandate.

75) Several observers expressed the view that the Code should essentially address ethical issues in order to provide guidance on acceptable practices in international food trade and food distribution, in order to ensure consumer protection, whereas the current draft overly focused on trade agreements and other issues that were adequately covered elsewhere. Some observers noted that the development of such a code would be difficult to achieve in practice and that this should be considered as a long-term objective.

76) The Representative of FAO informed the Committee that FAO had established an FAO High Panel on Ethics in Food and Agriculture and that if required the views of this panel on the present Code could be sought. The Committee noted that a similar panel also existed in WHO.

### **Status of the Proposed Draft Revised Code of Ethics for International Trade in Foods**

77) The Committee agreed to seek the advice of the Commission to further clarify the need to revise the Code of Ethics and its intended scope, particularly with regard to whether it should focus solely on ethical aspects.

78) The Committee agreed to return the Proposed Draft Revised Code, as amended at the present session, for comments at Step 3 and consideration at the next (regular) session, with the understanding that it would be circulated for comments, subject to the advice of the Commission (see Appendix IV).

### **Definition of Food**

79) The Committee recalled that the last regular session had considered the definition of food in Article 3 of the Code, that was identical to the definition included in the Procedural Manual. The Committee had agreed to retain the current definition for the purposes of the Code and had asked the Secretariat to prepare a discussion paper in order to consider this issue from a more general point of view.

80) The Secretariat informed the Committee that no other international definition of food had been identified at this stage, that substantial differences appeared to exist between national regulations in this area and noted that the current definition could be circulated for comments if the Committee wished to undertake specific work in this area.

81) Several delegations supported further consideration of the definition of food as a separate issue and proposed to provide the definitions they applied at the national level. The Delegation of Japan suggested that the definition of food should be clearly distinguishable from that of products used for pharmaceutical purposes.

82) The Observer from Greenpeace questioned the definition of food as substances “intended for human consumption” since some products that were not edible might appear to be so.

83) The Observer of IFCGA, referring to the proposal made earlier to delete the reference to chewing gum in the definition of food, expressed the view that chewing gum should continue to be considered as food for the purposes of Codex, whether or not it was actually included in the definition.

84) The Committee agreed to initiate new work on the revision of the current definition of food, as contained in the Procedural Manual, subject to approval by the 27<sup>th</sup> Session of the Commission, and to circulate the current definition for comments and consideration by the 22<sup>nd</sup> Session of the Committee.

### **CONSIDERATION OF TRACEABILITY/PRODUCT TRACING (Agenda Item 6)<sup>5</sup>**

85) The French Secretariat recalled that the 18<sup>th</sup> Session of the Codex Committee on General Principles had established an electronic working group, open to all members and observers of Codex, under the direction of the Delegation of France, to develop a draft for the consideration of the next regular session of the Committee. The result of its work was presented in document CX/GP 04/20/6 and circulated for comments before the present session of the Committee.

<sup>5</sup> CX/GP 04/20/6-Add.1 (comments of Australia, Canada, Colombia, European Community, Mexico, New Zealand, South Africa, United States of America, Consumers International, Europabio, 49P), CX/GP 04/20/6-Add.2 (comments of Brazil, Cuba, Egypt, Japan, Uruguay, OIE), CRD 7 (comments of Malaysia), CRD 11 (comments of India), CRD 15 (comments of CropLife International)

86) The Committee held a general discussion on the definition presented in document CX/GP 04/20/6, particularly with regard to its scope and degree of detail. Many delegations emphasized the importance of developing a Codex definition, especially in the light of the work of the Codex Committee on Food Import and Export Inspection and Certification Systems and other Codex Committees and expressed the view that the definition of traceability/product tracing should be more precise and concise and should not cover objectives or principles of specific traceability/product tracing application.

87) Some other delegations were of the view that the definition should be sufficiently broad and include such elements that would facilitate the application of the concept as a management tool and also to ensure fair practices in the food trade. It was suggested that animal feed and food producing animals should be covered by the definition, as traceability/product tracing in some cases could include them. It was also suggested by the Delegation of India that the definition should have the flexibility to exclude primary production. Some delegations, including Chile and Costa Rica, that had not sent written proposals, put forward a proposed definition of traceability/product tracing during the meeting.

88) The Committee agreed to convene an *ad hoc* drafting group chaired by the Delegation of France in order to proceed with the further elaboration of the definition by accommodating the views of delegations, including the written comments received.

89) On the basis of the work of the drafting group<sup>6</sup>, the Committee agreed on a new definition of traceability/product tracing as follows:

**Traceability / product tracing:** the ability to follow the movement of a food through specified stage(s) of production, processing and distribution.

90) It was understood that the term “ability” should be used, as it would leave possibilities to specify the person(s)/organization(s) having this ability when guidelines for specific applications would be drafted.

91) It was noted that the phrase “to follow the movement of” was appropriate since the use in the body of a definition words having the same root as the word to be defined was unhelpful and might result in a lack of clarity. It was also agreed not to use the verbs trace/track at this point. The phrase agreed upon already implied that the item traced has been properly identified and that the insertion of the verb “identify”, as some written comments had suggested, was not needed.

92) It was noted that the inclusion of feed and food producing animals in this Codex general definition might pose difficulties. It was recognized that traceability/product tracing could cover these parts of the food chain, only in so far as, in some situations, there was an impact on the food itself and as guidelines for specific applications would so establish. It was also noted that the Codex definition of “food” only covered products for human consumption and not “feed”; that the Commission had established an *ad hoc* Intergovernmental Task Force on Animal Feeding; and that this Codex general definition might still be able to be used by this Task Force.

93) It was agreed to introduce some flexibility by using the wording “through specified stage(s) of” in order to take into account the specific conditions of the primary production sector in developing countries, recognizing that detailed guidelines for specific applications would have to deal with this issue.

94) The phrase “production, processing and distribution” was also chosen in order to describe succinctly the range of the operation of traceability/product tracing. It was also agreed that the term “production” could be interpreted in such a broad manner as to cover food producing animals, feed, fertilizers, pesticides, veterinary drugs, and any input of plant or animal origin, etc., if relevant for specific applications of traceability/product tracing to food.

95) The Committee expressed its appreciation to the Delegation of France for the achievement made and for its contribution to the consensus building process.

#### **Status of the Definition of Traceability/Product tracing**

96) The Committee agreed to forward the definition of Traceability / Product tracing (Appendix V) to the 27<sup>th</sup> Session of the Codex Alimentarius Commission for adoption and inclusion in the Procedural Manual.

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<sup>6</sup> CRD 16 (Report of the Drafting group on the definition of traceability/product tracing)

## **GUIDELINES ON COOPERATION WITH INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS (Agenda Item 7)<sup>7</sup>**

97) The Committee recalled that following the request of the Commission to provide guidance on cooperation with other International Intergovernmental Organizations (IGOs) on the elaboration of Codex Standards and Related Texts, the 17<sup>th</sup> and 18<sup>th</sup> Sessions had discussed the development of guidelines for that purpose. The 18<sup>th</sup> Session had discussed the types of cooperation that could be established and had agreed that the Secretariat would redraft the document in the light of the comments made during the session. The Secretariat introduced the draft guidelines and indicated that two types of cooperation were proposed: the elaboration of a joint standard or related text with a cooperating organization; and substantial cooperation with a cooperating organization at the initial drafting stages of a standard or related text.

98) The Committee agreed to correct the title, that should refer to “international” intergovernmental organizations. As proposed by several delegations, the Committee agreed to delete the Preamble as general orientations were defined in the Statutes of the Codex Alimentarius Commission and Objective 3 of the Strategic Framework, and it was not necessary to repeat them in the Preamble.

99) The Delegation of Malaysia, referring to its written comments, expressed its objections to the elaboration of joint standards with a cooperating organization as this would hinder the efficiency of Codex, while the differences in approach, membership and procedures between Codex and the cooperating organization might result in difficulties for developing countries, lack of transparency and inclusiveness. The Delegation also expressed its objections to cooperation at the initial drafting stages in view of the importance of the first drafting for the orientation of further debate, and proposed that standards, including their initial drafting stages, should be elaborated by Codex subsidiary bodies through the Codex Step Procedure. This position was supported by several delegations.

100) The Delegation of Chile stressed the importance of developing procedures of cooperation with other organizations to ensure the efficiency of the standard-setting process, but highlighted the need to retain separate procedures so as not to impede the fluidity and transparency of the normative process.

101) The Observer of OIE stressed the importance of increased cooperation between Codex and OIE in order to ensure food safety of products of animal origin throughout the food chain, and highlighted the activities of the OIE Working Group on Animal Production Food Safety, oriented to the human health concerns at the farm production level. In this perspective, the Observer supported the development of guidelines but also a more formal recognition of the relationship between Codex and OIE. Noting that most member countries of Codex were also members of OIE, the Observer also pointed out that cooperation and coordination at the national level should be encouraged.

102) Several delegations noted that increased cooperation between Codex and the cooperating organizations would contribute to avoiding overlap, gaps and inconsistency in areas of mutual interest. It was recognized that OIE had made significant contribution to the work of several subsidiary bodies of Codex. It was also noted that cross-referencing of standards of respective organizations was one of the useful means to enhance consistency.

103) The Observers from OIV and IIR informed the Committee of their activities, while recalling their long-standing cooperation with Codex, and supported further development of guidelines for cooperation with IGOs.

104) Some delegations expressed the view that, in the development of guidelines, a difference should be made between the organizations referred to under the SPS Agreement (i.e. OIE and IPPC), in view of their specific relevance to Codex work, and other IGOs.

105) The Delegation of the United States stressed the need to draw from the expertise of other IGOs in order to improve the efficiency of the Codex process, stressed the importance in particular of cooperation with OIE, especially in the framework of the food chain approach, and proposed to focus on cooperation at the initial stage of standard development. The Delegation stressed that Codex standards should be developed and adopted using the Codex procedure. This position was supported by several delegations.

106) Several delegations, while supporting cooperation with other IGOs, expressed the view that the procedure proposed for the elaboration of joint standards would be difficult to apply in practice and could result in increased costs and substantial delays in the standard-setting process. The Committee therefore

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<sup>7</sup> CX/GP 04/20/7, CRD 7 (comments of Malaysia), CRD 4 (comments of Thailand), CRD 17 (comments of EC)

agreed that this option should not be retained and deleted the corresponding section of the draft Guidelines (3a).

107) Several delegations expressed the view that cooperation at the initial stages was already used in practice and should be used as a basis for further development of guidelines that should address the need for improved cooperation and exchange of information.

108) The Delegation of Ireland, speaking on behalf of the Member States of the European Union present at the Session, referring to its written comments, proposed to include a new type of cooperation that included the participation of observers from Codex in the work of the cooperating organization. The Delegation of India expressed its concerns with this new procedure that would create substantial practical difficulties and supported further consideration of the current section 3c).

#### **Status of the Guidelines on Cooperation with International Intergovernmental Organizations**

109) The Committee agreed that the Secretariat would redraft the Proposed Draft Guidelines for consideration at the next (extraordinary) session. The Committee agreed that the revised version should be developed on the basis of the current section 3c) (cooperation at the initial drafting stages) and in the light of the comments made at the present session, in order to ensure cooperation, collaboration, consistency and communication, including exchange of information, between Codex and the cooperating organization, taking into account the relationship with organizations referred to under the SPS Agreements.

#### **REVIEW OF THE PRINCIPLES CONCERNING THE PARTICIPATION OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS IN THE WORK OF THE CODEX ALIMENTARIUS COMMISSION (Agenda Item 8)<sup>8</sup>**

110) The Committee considered document CX/GP 04/20/8, entitled “Review of the Principles concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission”. The document was introduced by the representative of the Legal Counsel of WHO, who noted that it had been prepared in response to a request by the Committee at its 19<sup>th</sup> (extraordinary) session that the Secretariat, in cooperation with the Legal Counsels of FAO and WHO, prepare a general document outlining main areas of improvement of the Principles concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission (the Principles), both in the light of the Committee’s decision to revise Rule VIII of the Rules of Procedure as well as with regard to the criteria for eligibility of international non-governmental organizations (INGOs).

111) The representative of the Legal Counsel of WHO recalled that the subject under discussion was part of a group of interrelated items on the admission and status of observers that the Committee was considering at the request of the Commission as a follow-up to the recommendations of the Joint FAO/WHO Evaluation of the Codex Alimentarius and Other FAO and WHO Work on Food Standards (Joint FAO/WHO Evaluation). As part of the consideration of those items, the Committee had adopted at its current session draft amendments to Rule VIII of the Rules of Procedure, for submission to the Commission at its 27<sup>th</sup> Session. The document under consideration focused on two main aspects concerning the revision of the Principles: firstly, it made suggestions concerning the procedure for admission of INGOs into observer status with Codex, as well as for termination and review of such status, based on the aforementioned decisions concerning Rule VIII. Secondly, it elaborated considerations contained in the document<sup>9</sup> submitted to the 19<sup>th</sup> session of the Committee pertaining to the criteria for eligibility of INGOs.

112) The representative of the Legal Counsel of WHO raised two issues which were not spelt out in the working document, for the consideration of the Committee. Firstly, he noted that there would be a transitional period between the entry into force of the amendments to Rule VIII after the 27<sup>th</sup> session of the Commission and the adoption of detailed procedures on the admission of INGOs into observer status, as part of the revised Principles, not earlier than at the 28<sup>th</sup> session of the Commission in 2005. This might create practical problems for the Executive Committee and the Secretariat. To avoid such a situation, he suggested that the CCGP might wish to propose that the Commission either delay amending Rule VIII until its 28<sup>th</sup> Session, or else defer the applicability of the amended Rule VIII until the entry into force of revised Principles. Secondly, as recommended by the Joint FAO/WHO Evaluation, the CCGP might wish to suggest to the Commission that the revised criteria be applied to INGOs currently in observer status, and to make proposals about the time frame for such a review.

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<sup>8</sup> CX/GP 04/20/8, CRD 13 (comments of India)

<sup>9</sup> CX/GP 03/19/5



113) Many delegations agreed on the usefulness of working towards a revision of the Principles on the basis of the proposals by the Secretariat, in particular with regard to the criteria for eligibility. Several delegations stressed the need to strike a balance between diversity of contributions and broad participation, and efficiency in the work of Codex as well as the need to prioritize the use of available resources.

114) Several delegations and observers also generally agreed that the paramount criteria to be applied to INGOs seeking observer status should be the significance of their contribution in advancing the purposes of the Codex Alimentarius Commission, their ability to represent important sections of public opinion as well as transparency concerning the interests that they represent. The Observer from Consumers International also called for a balance in representation between consumer and commercial interests in Codex. The Observer from 49P noted that the paramount criterion to be applied to INGOs seeking observer status should be their “track record” indicating an ability to advance the work of the Codex Alimentarius Commission.

115) The discussion focused on how to apply those criteria in practice so as to balance the use of objective indicators with the flexibility required for considering the diverse structures and mandates of different INGOs. The Committee also noted the concerns expressed by some observers, in particular that a list of numerical or quantitative criteria was not perceived as a meaningful manner to measure the significance of an INGO’s contribution.

116) Concerning the reference to the attendance of INGOs at Codex meetings as an indicator of their contribution and a criterion for their maintenance of observer status, several delegations and observers expressed concern at a rigid application which could unfairly penalize INGOs with expertise in areas that were not regularly considered by the relevant Codex bodies. Consideration should also be given to the increasing cost incurred by INGOs for attending Codex meetings. For these reasons, these delegations and observers proposed that other forms of contribution and cooperation be taken into account, in particular the submission of written comments.

117) Various views were expressed as to the proposals by the Secretariat concerning the requirement that an INGO be international in structure and scope of activities. Many delegations supported a reference to a minimum number of countries in which an INGO should have members and/or activities, while other delegations added that INGOs should also have members and/or activities in at least two of the geographical locations of Codex. Some delegations and observers which addressed this issue noted that the Executive Committee, as well as the Directors-General of FAO and WHO, should have flexibility in the application of geographical criteria to avoid the exclusion of INGOs which would otherwise be considered as cooperating effectively with Codex. The delegation of Belgium, supported by the Observer from ALA, also noted that a rigid application of geographical criteria could lead to the exclusion of many INGOs currently in observer status, with particular regard to INGOs which were based in only one Codex region and were actively participating in certain commodity committees.

118) The particular situation of so-called “umbrella INGOs” of a federated nature was considered by some delegations as requiring a careful consideration. The view was generally supported that observer status in specific Codex meetings should be granted to umbrella organizations when their members so accepted and the larger organizations were prepared to represent their positions. Possible differences of opinions between such organizations, while relevant from the point of view of the representative nature of umbrella INGOs, should preferably be solved by the organizations concerned. The Observer from IFU also underlined that umbrella organizations should assume the responsibility of coordinating the views of their members so as to be able to express the general position of the sector that they represent.

119) Concerning the two issues raised by the representative of the Legal Counsel of WHO at the end of his introductory statement, there was general support for the proposal that the Commission adopt the amendments to Rule VIII at its 27<sup>th</sup> session while deferring its applicability to INGOs applying for observer status until the revised Principles are adopted. General support was also expressed concerning the appropriateness and fairness of reviewing the situation of INGOs in observer status in the light of the revised Principles, with particular regard to specific criteria for eligibility. Several delegations, at the same time, cautioned that any plan for the revision of INGO participation should be addressed in the light of the limited resources available to the Codex Secretariat.

120) The Committee requested the Secretariat, in cooperation with the Legal Counsels of FAO and WHO, to prepare draft revised Principles concerning the participation of INGOs in the work of the Codex Alimentarius Commission and submit them to the 21<sup>st</sup> (extraordinary) session of the Committee on General Principles in November 2004. The Committee also agreed to recommend to the Commission that the

applicability of the amendments to Rule VIII of the Rules of Procedure to INGOs seeking observer status with the Codex Alimentarius Commission, to be adopted at its 27<sup>th</sup> session, be deferred until the adoption of the revised Principles.

**OTHER BUSINESS AND FUTURE WORK, INCLUDING THE FOLLOWING MATTERS ARISING FROM THE 19<sup>TH</sup> (EXTRAORDINARY) SESSION OF THE COMMITTEE (Agenda Item 9)<sup>10</sup>**

**CLARIFICATION OF THE RESPECTIVE ROLES OF MEMBERS OF THE EXECUTIVE COMMITTEE ELECTED ON A GEOGRAPHIC BASIS AND OF COORDINATORS (Agenda Item 9a)**

121) The Committee recalled that the 26<sup>th</sup> Session of the Codex Alimentarius Commission decided that the Executive Committee should be enlarged by appointing the Coordinators as its Members. It also noted that the respective roles of the Coordinators and the other Members elected on a geographic basis might require clarification.

122) The Committee endorsed the proposal of the Codex Secretariat to send a Circular Letter, with concurrence of the Commission, to the governments, requesting their view as regard the way in which the Coordinator and the Member(s) elected by the Commission on a geographic basis should represent the interest of the Region within the Executive Committee. The comments received would be discussed at the forthcoming sessions of Coordinating Committees and the views of these Committees would then presented to the 28<sup>th</sup> Session of the Commission for further consideration.

123) The Delegation of Chile stressed the importance for the Regional Coordinator as well as the Regional Representative to be Members of the Executive Committee to ensure that geographically large regions with a large number of members have an adequate representation. For this purpose the Regional Coordinator and Regional Representative should come from different sub-regions. In practice the Regional Representative could for instance act as Vice-Chair in the Regional Committee.

124) The Delegation of United States expressed its opinion that the Coordinator should be considered as the principal representative of the Region and should thus have the benefit of being accompanied by two advisers, while the established practice that the Members of the Executive Committee elected on a geographic could be accompanied by advisers should be reviewed. The Delegation hoped that the points of discussion contained in the Circular Letter would be construed in such a way to allow for a broad reflection by governments on the new composition of the Executive Committee.

**CLARIFICATION OF THE DURATION OF THE TERM OF THE COORDINATORS AND OTHER MEMBERS OF THE EXECUTIVE COMMITTEE (Agenda Item 9b)**

125) The Committee recalled that this issues had been raised at its 19<sup>th</sup> session. The Secretariat clarified that according to Rule III.4 (b) of the Rules of Procedure the duration of office of Coordinators was decided by the Commission each time at their appointment, in terms of the number of regular sessions of the Commission, taking into account the meeting schedule of Coordinating Committees and the Commission. The term of the present Coordinators appointed by the 26<sup>th</sup> session of the Commission would be until the end of the 28<sup>th</sup> Session of the Commission scheduled in 2005 (i.e. a period of two years).

126) The Delegation of the United States noted that the term of the Chairperson and the Vice-Chairpersons was from the end of the session at which they were elected until the end of the following regular session of the Commission while the other members of the Executive Committee elected on a geographic basis held office from the end of the session at which they were elected until the end of the second succeeding regular session of the Commission. The Delegation wondered whether the different lengths of terms of these should be put into alignment and whether the duration of the term could be expressed in the number of years rather than number of sessions of the Commission.

127) The Committee agreed to request the Codex Secretariat, in cooperation with the Legal Counsels of FAO and WHO, to prepare a discussion paper for the 21<sup>st</sup> session of the Committee to clarify the current rules of the Commission and relevant practices in the parent organizations.

**RELEVANCE OF THE CURRENT ACCEPTANCE AND NOTIFICATION PROCEDURES FOR CODEX STANDARDS (Agenda Item 9c)**

128) The Codex Secretariat recalled that the procedures for the notification of acceptance and publication, which were practically not used by the Commission and its Members, had been reviewed in the past sessions

<sup>10</sup> CRD1 (comments of Argentina), CRD 6 (comments of the European Community)

of the Committee, without reaching consensus as to whether the current provisions should be removed or amended.

129) Some delegations stated that the procedures needed to be revised but not eliminated. The Delegation of the European Community, supported by the Delegation of Canada, expressed the view that these procedures are not used by Codex Members and that given the status of Codex standards and related texts under the WTO Agreements the acceptance procedures of Codex had become obsolete and should therefore be eliminated.

130) The Delegation of Chile pointed out that in the notification procedure established by the WTO SPS Agreement, Members should notify sanitary and phytosanitary measures that differ from an international standard or when such standard does not exist, but they are not requested to notify measures corresponding to an international standard. In case Codex decided to establish such a procedure, this should be done in agreement with the WTO.

131) The Representative of the World Trade Organization stated that within the WTO context the formal acceptance or otherwise by countries of Codex texts was irrelevant. Although WTO Members had the obligation to notify their national measures only if they deviated from international standards, they were encouraged to notify also the use of Codex standards. If new notification procedures were to be considered by Codex, they should be developed in coordination with WTO to avoid duplication.

132) The Committee agreed to request the Codex Secretariat to prepare a discussion paper for the 21<sup>st</sup> Session of the Committee, which would contain a summary of the previous work and possibilities for revision of the procedures.

#### **POSSIBLE REORGANIZATION OF THE STRUCTURE AND PRESENTATION OF THE PROCEDURAL MANUAL (Agenda Item 9d)**

133) The Committee recalled that, due to time constraints at its last (19<sup>th</sup>) Session, it could not discuss the issue of possible reorganisation of the structure and presentation of the Procedural manual to make it more user-friendly.

134) The Committee agreed that the Codex Secretariat would prepare a discussion paper for the next regular Session of the Committee, on the possible ways to reorganise the Procedural manual, including any update on the actions that would have been taken by the Secretariat on this matter.

135) Several delegations were of the view that such possible ways could include the publication of the future editions of the Procedural Manual in separate sections without having to publish the whole document each time it was amended. They also supported the use of the Codex website for this purpose, including on-line publication.

#### **PARTICULAR SITUATION OF THE NORTH AMERICA REGION IN THE CONTEXT OF RULE IV.1 (Agenda Item 9e)**

136) The Delegation of the United States recalled that the Executive Committee at its 53<sup>rd</sup> Session had received a legal opinion from the Legal Counsel of WHO in response to its question as to whether the Officers of the Commission were “delegates” under the terms of Rule IV.1 of the Rules of Procedure. The Delegation noted that the Legal Counsel had highlighted the ambiguities surrounding Rule IV in this respect; consequently, the Delegation had tabled document CRD 8 which requested the Committee on General Principles to recommend, for adoption by the Commission, the following interpretative statement: *“For the purposes of Rule IV.1, it is understood that the Chairperson and Vice-Chairpersons are not delegates of a country, but represent all Member States”*. The Delegation of the United States stressed that the Chairperson and Vice-Chairpersons, when serving in that capacity, did not represent their delegations but spoke for Codex in its entirety and represented it as such in the Executive Committee as well as when interacting with other Codex bodies and other international organizations. The Delegation proposed that the Legal Counsels of FAO and WHO take the views expressed in CRD 8 under advisement and submit to the 21<sup>st</sup> (extraordinary) session of the Committee a clarification of the meaning of “delegate” in this regard.

137) The representative of the Legal Counsel of WHO briefly recalled the main elements of the opinion presented by the Legal Counsel of WHO to the Executive Committee. In response to a point raised by the Observer from Greenpeace and addressed by the Delegation of Canada, he noted that the Chairperson and Vice-Chairpersons were drawn from the delegations of Members of the Commission and were entitled to

138) participate in Codex meetings as such and represent the views of their delegations when not serving as Officers.

139) The Committee agreed to request the Legal Counsels of FAO and WHO to submit to the 21<sup>st</sup> (extraordinary) session of the Committee a document providing further clarifications as to whether the Chairperson and Vice-Chairpersons of the Executive Committee could be considered “delegates” for the purposes of Rule IV.1 of the Rules of Procedure.

#### **IMPLICATIONS OF THE EXCLUSIVE USE OF ELECTRONIC DISTRIBUTION OF CODEX DOCUMENTS TO MEMBERS AND OBSERVERS (Agenda Item 9f)**

140) The Committee recalled that due to time constraints this issue could not be discussed at its last (19<sup>th</sup>) Session.

141) The Codex Secretariat informed the Committee that due to budgetary constraints there was a need to rationalise the distribution of Codex documents and for this purpose a Circular Letter was under preparation in order to request the Codex Contact Points whether they would still require hard copies of the Codex working documents and if so in which quantity and language.

142) Some delegations expressed their concern about the financial impact the exclusive use of electronic distribution of Codex documents might have on developing countries. Several delegations highlighted the need to effectively use the electronic distribution of documents in ensuring the availability of documents in time before each of Codex sessions.

#### **CRITERIA APPLICABLE FOR THE PARTICIPATION OF DEVELOPING COUNTRY MEMBERS IN THE EXECUTIVE COMMITTEE IN THE LIGHT OF THE PROPOSED RULE XII.3 AND THE CODEX BUDGET AVAILABLE (Agenda Item 9g)**

143) The 19<sup>th</sup> (extraordinary) Session of the Committee had agreed to forward for adoption to the 27<sup>th</sup> Session of the Codex Alimentarius Commission the proposed amendments to Rule XII Budget and Expenses (ALINORM 04/27/33 para. 33 and Appendix II).

144) The Codex Secretariat informed the Committee that the list of developing countries eligible for the FAO/WHO Trust Fund for Enhanced Participation was agreed upon by the 53<sup>rd</sup> session of the Executive Committee in order to allow the Trust Fund to become operational in a first stage<sup>11</sup>. The Executive Committee also agreed that the list of eligible countries could serve, on an interim basis, for the purpose of understanding the scope of the term “developing countries” used in the proposed new Rule XII.3. The Codex Secretariat clarified that after the entry into force of the proposed new Rule, the new provision would then be reflected in the preparation of the first biennial budget to be prepared by FAO and WHO<sup>12</sup>.

#### **FAO/WHO TRUST FUND FOR ENHANCED PARTICIPATION IN CODEX (Agenda Item 9h)**

145) The Representative of WHO informed the Committee that the US \$ 500,000 threshold of the Trust Fund was reached in December 2003 and the Fund therefore became operational. The latest total contribution by donor countries (Canada, the European Community, Ireland, Norway, the Netherlands, Switzerland and the United States of America) was now standing at US \$ 922,379.

146) Following a call for application, 91 countries had submitted their application. Some developing country delegates, benefiting from the Trust Fund, had already participated in the sessions of the Codex Committees on Food hygiene and on Pesticide Residues as well as in the current session of the Codex Committee on General Principles. A Fourth Report on the operation of the Trust Fund would be presented at the next session of the Codex Alimentarius Commission; a donor meeting would be held in 2005, after a one-year period of operation of the Trust Fund.

147) The Delegations of Tonga and Uganda expressed their appreciation to the Codex Alimentarius Commission, FAO and WHO and donor countries for enabling them to attend the present session of the Committee and noted the need to ensure continuity in their work related to Codex.

#### **DATE AND PLACE OF NEXT SESSION (Agenda Item 10)**

148) The Committee noted that its 21<sup>st</sup> (extraordinary) session would be held in France in November 2004, the exact date and place to be determined by the host country and the Codex Secretariat, and that its 22<sup>nd</sup> (regular) session would be held from 11 to 15 April 2005.

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<sup>11</sup> ALINORM 04/27/3 para. 50

<sup>12</sup> ALINORM 04/27/3 paras. 105-106

## SUMMARY STATUS OF WORK

Subject Matter	Step	Action by	Reference in ALINORM 04/27/33A
Proposed Amendments to the Procedural Manual		Governments 27 <sup>th</sup> CAC	paras. 12-14, 20, 30 Appendix II
Proposed Amendment to <i>Rule VIII Observers</i>		Governments 27 <sup>th</sup> CAC	para. 36 Appendix III
Proposed Definition of Traceability/Product Tracing		Governments 27 <sup>th</sup> CAC	para. 96 Appendix IV
Proposed Draft Revised Code of Ethics for International Trade in Foods	3	27 <sup>th</sup> CAC Governments 22 <sup>nd</sup> CCGP	para. 77-78 Appendix V
Proposed Draft Working Principles for Risk Analysis for Food Safety	3	Governments 22 <sup>nd</sup> CCGP	para. 43
Revision of the Definition of “food”		27 <sup>th</sup> CAC Governments 22 <sup>nd</sup> CCGP	para. 84
Guidelines for Cooperation with International Intergovernmental Organizations		Secretariat 21 <sup>st</sup> CCGP	para. 109
<i>Revised Principles concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission</i>		Secretariat 21 <sup>st</sup> CCGP	para. 120
<u>Other questions:</u> - duration of the term of the Members of the Executive Committee - acceptance and notification procedures - interpretation of the term “delegate”		Secretariat 21 <sup>st</sup> CCGP	para. 127 para. 132 para. 138

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## PROPOSED AMENDMENTS TO THE PROCEDURAL MANUAL

### 1. GENERAL CRITERIA FOR THE SELECTION OF SINGLE-LABORATORY VALIDATED METHODS OF ANALYSIS (TO BE INCLUDED AFTER THE GENERAL CRITERIA)

Inter-laboratory validated methods are not always available or applicable, especially in the case of multi-analyte/multi substrate methods and new analytes. The criteria to be used to select a method are included in the General Criteria for the Selection of Methods of Analysis. In addition the single-laboratory validated methods must fulfill the following criteria:

- i. the method is validated according to an internationally recognized protocol (e.g. those referenced in the harmonized IUPAC Guidelines for Single-Laboratory Validation of Methods of Analysis)
- ii. the use of the method is embedded in a quality system in compliance with the ISO/IEC 17025: 1999 Standard or Principles of Good Laboratory Practice;

The method should be complemented with information on accuracy demonstrated for instance with:

- regular participation in proficiency schemes, where available;
- calibration using certified reference materials, where applicable;
- recovery studies performed at the expected concentration of the analytes;
- verification of result with other validated method where available

### 2. GUIDELINES FOR THE INCLUSION OF SPECIFIC PROVISIONS IN CODEX STANDARDS AND RELATED TEXTS PRINCIPLES FOR THE ESTABLISHMENT OF CODEX METHODS OF ANALYSIS AMENDMENTS TO ANALYTICAL TERMINOLOGY FOR CODEX USE

*Specificity: deleted*

**Selectivity:** Selectivity is the extent to which a method can determine particular analyte(s) in mixtures or matrices without interferences from other components of similar behaviour.

Selectivity is the recommended term in analytical chemistry to express the extent to which a particular method can determine analyte(s) in the presence of interferences from other components. Selectivity can be graded. The use of the term specificity for the same concept is to be discouraged as this often leads to confusion.

**Accuracy (as a concept) and Accuracy (as a statistic) to be replaced with the following definition:**

**Accuracy:** The closeness of agreement between a test result and the accepted reference value.

Note:

The term accuracy, when applied to a set of test results, involves a combination of random components and a common systematic error or bias component.

**Trueness:** The closeness of agreement between the average value obtained from a series of test results and an accepted reference value.

Notes:

- 1 The measure of trueness is usually expressed in terms of bias.
- 2 Trueness has been referred to as “accuracy of the mean”. This usage is not recommended.

## TERMS TO BE USED IN THE CRITERIA APPROACH

**Selectivity:** Selectivity is the extent to which a method can determine particular analyte(s) in mixtures or matrices without interferences from other components of similar behaviour.

Selectivity is the recommended term in analytical chemistry to express the extent to which a particular method can determine analyte(s) in the presence of interferences from other components. Selectivity can be graded. The use of the term specificity for the same concept is to be discouraged as this often leads to confusion.

### 3. DEFINITIONS OF RISK ANALYSIS TERMS RELATED TO FOOD SAFETY

**Food Safety Objective (FSO):** The maximum frequency and/or concentration of a hazard in a food at the time of consumption that provides or contributes to the appropriate level of protection (ALOP).

**Performance Objective (PO):** The maximum frequency and/or concentration of a hazard in a food at a specified step in the food chain before the time of consumption that provides or contributes to an FSO or ALOP, as applicable.

**Performance Criterion (PC):** The effect in frequency and/or concentration of a hazard in a food that must be achieved by the application of one or more control measures to provide or contribute to a PO or an FSO.

### 4. AMENDMENT TO PART 2. CRITICAL REVIEW OF THE PROPOSED AMENDMENTS TO THE PROCEDURES FOR THE ELABORATION OF CODEX STANDARDS AND RELATED TEXTS (ALINORM 04/27/33, Appendix III)

#### Paragraph 4

*“The decision to undertake new work or revision of individual maximum residue limits for pesticides or veterinary drugs, or the maintenance of the General Standard on Food Additives<sup>1</sup>, the General Standard on contaminants and toxins in foods<sup>2</sup>, the Food categorization system and the International numbering System, shall follow the procedures established by the Committees concerned and endorsed by the Commission”.*

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<sup>1</sup> including related methods of analysis and sampling plans  
<sup>2</sup> including related methods of analysis and sampling plans

**PROPOSED AMENDMENT TO THE RULES OF PROCEDURE  
OF THE CODEX ALIMENTARIUS COMMISSION*****Rule VIII. Observers***

(...)

5. *Participation of international intergovernmental organizations in the work of the Commission and the relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitutions of FAO or WHO, as well as by the applicable regulations of FAO or WHO on relations with intergovernmental organizations; such relations shall be handled by the Director-General of FAO or WHO, as appropriate.*

6. *Participation of international non-governmental organizations in the work of the Commission and the relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution of FAO or WHO, as well as by applicable regulations of FAO or WHO on relations with international non-governmental organizations. Such relations shall be handled by the Director-General of FAO or WHO, as appropriate, on the advice of the Executive Committee. The Commission shall develop and keep under review principles and criteria concerning the participation of international non-governmental organizations in its work, consistent with the applicable regulations of FAO or WHO.*

**DEFINITION OF TRACEABILITY / PRODUCT TRACING**

*Definition to be included in the Procedural manual*

**Traceability / product tracing:** the ability to follow the movement of a food through specified stage(s) of production, processing and distribution.

**PROPOSED DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD**  
**CAC/RCP 20-1979, Rev. 1 (1985)**  
(At Step 3 of the Procedure)

**PREAMBLE**

**THE CODEX ALIMENTARIUS COMMISSION,**

**RECOGNIZING THAT:**

- (a) Adequate, safe, and wholesome food is a vital element for the achievement of acceptable standards of living and that the right to a standard of living adequate for the health and wellbeing of individuals and their family is proclaimed in the Universal Declaration of Human Rights of the United Nations, the Rome Declaration of the World Food Summit;
- (b) Food is a vital and critical item of international trade and its quality and safety is influenced primarily by prevailing commercial practices and such food legislation and food control practices as are in operation in particular countries;
- (c) Food purchases utilize a significant portion of the income of consumers, particularly low-income consumers, who often also represent the most vulnerable group and for whom ensuring of safe, sound and wholesome food and protection from unfair trade practices is critical;
- (d) There is ever present concern about food safety, unfair trade practices in quality, quantity and presentation of food, misleading claims, food losses and wastage and, generally about food quality and nutritional status everywhere; the establishment of effective food control systems can lead to improvements in this situation;
- (e) Food legislation and food control infrastructures may not be sufficiently developed in many countries to enable adequate protection of their food exports and imports and to prevent the dumping of sub-standard and unsafe foods;
- (f) The World Trade Organization Agreements on trade, particularly the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and the Agreement on Technical Barriers to Trade (TBT) establish certain rights and obligations of Members for measures that affect international trade directly and indirectly;
- (g) The International Code of Marketing of Breast-milk Substitutes and relevant resolutions of the World Health Assembly set forth principles for the protection and promotion of breastfeeding which is an important aspect of primary health care;
- (h) The Rome Declaration and the Plan of Action of the World Food Summit encourage the assurance of adequate supplies of safe and nutritious food for all people, which is dependent upon the facilitation of trade and the use of appropriate food production and process controls exercised by both the food industry and governments;
- (i) Member countries may encounter difficulties in complying with the food regulations of importing Member countries, and as a consequence in access to markets;

**AND CONSIDERING THAT:**

- (a) The major objectives of the work of the Codex Alimentarius Commission are to protect the health of the consumers and ensure fair practices in international trade in food through the elaboration and harmonization of standards and related texts addressing food safety and quality, methods of analysis and sampling, inspection and certification systems;
- (b) The publication of the Codex Alimentarius is intended to assist in the harmonisation of the definitions and requirements for food and in doing so to facilitate international trade;

- (c) The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures, taking into account the standards and related texts of the Codex Alimentarius Commission and, where necessary, taking advantage of the work of international organizations competent to advise and provide assistance in these areas;
- (d) A code of ethical conduct for international trade in food embodying the principles of consumer protection can be complementary to national food legislation and food control infrastructures and, at the same time facilitate effective international cooperation;
- (e) Due consideration should be given to the particular needs of developing countries, enabling them to produce and maintain a safe and wholesome food supply;

hereby decides to recommend that member countries commit themselves to the ethical framework set forth in this code and undertake to support its implementation in the larger interest of the world community.

#### **ARTICLE 1 - OBJECTIVE**

- 1.1 The objective of this code is to provide [advice/guidance] to governments and thereby to protect the health of the consumers and ensure fair practices in the food trade.
- 1.2 The code is designed for use by member governments, by those engaged in international trade and by producers and consumers in order to judge whether trade practices are acceptable.

#### **ARTICLE 2 - SCOPE**

This code applies to all food introduced into international trade and applies *mutatis mutandi* to concessional and food aid transactions.

#### **ARTICLE 3 - DEFINITION**

"Food" means any substance, whether processed, semi-processed or raw which is intended for human consumption and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.

#### **ARTICLE 4 - GENERAL PRINCIPLES**

- 4.1 International trade in food and food aid transactions should be conducted in a manner that is consistent with the objectives of ensuring the protection of consumers' health and fair practices in food trade, especially taking into account the Codex *Principles for Food Import and Export Inspection and Certification*.
- [4.2 International trade in food should be consistent with the obligations of member countries under the SPS and TBT Agreements.]
- 4.3 Countries should ensure that their national regulations do not create unjustified barriers to trade.
- 4.4 Appropriate national food standards, based on risk analysis where applicable, should be established and enforced [] [taking into account] [based on] the relevant standards and related texts established by the Codex Alimentarius Commission.
- 4.5. In the preparation and application of food regulations, countries should take into account the special needs and situation of developing countries, in conformity with the provisions of the SPS and TBT Agreements where applicable.
- 4.6. While not lowering the level of consumer health protection, when the difficulties of member countries are identified in ensuring that the food they produce, import and export meets international standards, assistance programs should be facilitated, including those of FAO and WHO, to enhance the capability of these countries to produce, import and export safe and wholesome food.

#### **ARTICLE 5 – REQUIREMENTS FOR FOOD IN INTERNATIONAL TRADE**

- 5.1 Food that is traded internationally should conform:
  - (a) to the requirements of Codex Alimentarius Commission's relevant standards and related texts; or
  - (b) to such food legislation as may be in force in the exporting and/or importing country; food standards and safety requirements of importing countries should be transparent and available to exporting countries ; or

- (c) to the provisions contained, regarding food, in bilateral or multilateral agreements signed by the exporting country and the importing country; or
- (d) in the absence of such provisions, to such standards and requirements as may be agreed upon, taking into account the provisions of Codex Standards and related texts wherever possible.

5.2 [Except when the food represents a risk to health, a country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country.]

[5.3 No food should be in international trade which:

- (a) has in or upon it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health; or
- (b) consists in whole or in part of any substance which is unfit for human consumption or contains foreign matter to an extent which makes it unfit for human consumption; or
- (c) is adulterated; or
- (d) is labelled or presented in a manner that is false, misleading or deceptive or that may adversely affect the safety of the food; or
- (e) is prepared, packaged, stored, transported or marketed under unsanitary conditions; or
- (f) has a remaining shelf-life that will not allow its distribution in the importing country before the expiry date.]

5.4 The provisions of Article 5.3 a) and b) do not prevent the export of raw or semi-processed foods which are not edible as such in order to be further processed, reprocessed or reconditioned in the importing country for the purpose of human consumption. Where special processing or culinary practices or storage conditions or any specific conditions are required to render the food harmless, the exporter should provide adequate information on such processing or conditions to the importer.

#### **Specific Requirements: Foods for Infants, Young Children and other Vulnerable Groups**

5.5 Food for infants, young children and other vulnerable groups should be in accordance with standards elaborated by the Codex Alimentarius Commission. The marketing and labelling of foods for infants and young children should be in accordance with relevant provisions of the International Code of Marketing for Breast-milk Substitutes (Article 9), World Health Assembly resolutions and Codex standards and related texts.

### **ARTICLE 6 - IMPLEMENTATION**

6.1 When rejection of a food product arises from:

- evidence of a serious food safety or public health problem in the exporting country; or
- evidence of serious misrepresentation or consumer fraud; or
- evidence of a serious failure in the inspection or control system in the exporting country,
- The exchange of information between authorities of the importing and exporting countries regarding the rejections of imported food should be in accordance with the *Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*; and
- the competent authorities of the importing and exporting country should take appropriate actions in accordance with their legal and administrative procedures, taking into account the *Codex Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems*, in particular paragraphs 30 to 37, and the *Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*, in particular, paragraphs 4 to 10. .

6.2 Except when the food represents a risk to health, food that has been exported and subsequently rejected at the time of import due to non conformity with the standards and other requirements of the importing country, may be

- allowed to be re-exported to the exporting country; or
- allowed to be re-exported to another country only if the precise reasons for the rejection are disclosed to the potential importer before re-export.

6.3 Information should be supplied regarding the action taken following the rejection or retention of a consignment of food, taking into account the *Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*

#### **ARTICLE 7 - RESPONSIBILITIES FOR IMPLEMENTATION**

7.1 The implementation of this code rests with:

(importing and exporting member countries who should,

(i) provide adequate food legislation and food control infrastructures to comply or verify compliance with Articles 4 and 6 of this Code, including certification and inspection systems and other legal or administrative procedures that also apply to re-exports of food as appropriate and necessary, and

(ii) work with the regulated industry, including all food manufacturers, distributors, transporters consumers and all others concerned with the international trade in food—~~particularly in respect of Article 5~~— to ensure that the General Principles in Article 4 are taken into account; and

(iii) use the *Codex Principles for Food Import and Export Inspection and Certification and the Codex Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems* to the fullest extent possible.

and further, will depend on

- such cooperation and consultative procedures as may be established between governments of importing and exporting countries, and, generally, between all those concerned with international food trade, and
- the extent to which international food standards and related texts, elaborated by the Codex Alimentarius Commission are considered and applied where relevant and appropriate.

~~7.2~~—~~deleted~~

7.2 (previous 7.3) This code should be promoted by member countries in their respective territorial jurisdictions in accordance with their legal and administrative procedures regulating the conduct of exporters, importers and all those engaged in international food trade.

#### **ARTICLE 8 - EXCEPTIONAL CIRCUMSTANCES**

8. Where special circumstances exist under which it is neither possible nor desirable to apply certain provisions of this code, as in the case of famines and other emergency situations (where the appropriate competent authorities in recipient and donor countries responsible for food control may decide to establish mutually agreed criteria), due regard should always be given to the basic principles of the safety of the food and other provisions of this code as may be applicable under those circumstances.

#### **ARTICLE 9 - EXCHANGE OF INFORMATION**

9. Countries denying entry to food for reasons involving serious considerations of public health or fraud and having reason to believe that the food may be exported to or distributed in countries should inform the competent authorities in the other countries in accordance with *the Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*. For emergency situations countries should follow the current version of the *Codex Guidelines for the Exchange of Information between Countries in Food Control Emergency Situations*. In addition, should an exporting country become aware of a problem related to an exported food product, the exporting country should immediately inform the competent authority in the importing country about the problem.

#### **~~ARTICLE 10 - DEVELOPING COUNTRIES~~**

[Transferred to **Article 4- General Principles**]