

CODEX ALIMENTARIUS COMMISSION



**Food and Agriculture
Organization of
the United Nations**



**World Health
Organization**

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ALINORM 10/33/33

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX ALIMENTARIUS COMMISSION

*Thirty-third Session
Geneva, Switzerland, 5-9 July 2010*

**REPORT OF THE TWENTY-SIXTH SESSION OF THE
CODEX COMMITTEE ON GENERAL PRINCIPLES**

Paris, France, 12 – 16 April 2010

Note: This document incorporates Circular Letter CL 2010/11-GP

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CL 2010/11-GP

April 2010

TO: Codex Contact Points
Interested International Organizations

FROM: Secretariat, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme,
FAO, 00153 Rome, Italy

SUBJECT: **Distribution of the Report of the 26th Session of the Codex Committee
on General Principles (ALINORM 10/33/33)**

A. MATTERS FOR ADOPTION BY THE 33th SESSION OF THE CODEX ALIMENTARIUS COMMISSION

Proposed Amendments to the Procedural Manual

1. Proposed amendment to the *Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces* (para 46 and Appendix III)
2. Proposed amendment to the *Guidelines to Host Governments of Codex Committees and Ad Hoc Intergovernmental Task Forces* (para 98 and Appendix V)

Governments and international organizations wishing to submit comments on the above amendments should do so in writing, preferably by E-mail to the Secretariat, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, FAO, Viale delle Terme di Caracalla, 00153 Rome, Italy (Email: codex@fao.org, fax : +39 06 57054593) **before 30 May 2010.**

Draft Text at Step 8 of the Procedure

The Draft Revised *Code of ethics for international trade in food including concessional and food aid transactions* at Step 8 (para 35, Appendix II)

Governments and international organizations wishing to submit comments should do so in writing, preferably by E-mail to the Secretariat, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, FAO, Viale delle Terme di Caracalla, 00153 Rome, Italy (Email: codex@fao.org, fax : +39 06 57054593) **before 30 May 2010.**

B. MATTERS FOR COMMENTS

Draft amendment to the terms of reference of the Committee (para 73 and Appendix IV)

Governments and international organizations wishing to submit comments should do so in writing, preferably by E-mail to the Secretariat, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, FAO, Viale delle Terme di Caracalla, 00153 Rome, Italy (Email: codex@fao.org, fax : +39 06 57054593) **before 30 November 2010.**

TABLE OF CONTENTS

Summary and conclusions	page v
Report of the 26th Session of the Codex Committee on General Principles.....	page 1
Summary status of work	page 14

Paragraphs

Introduction.....	1-3
Adoption of the agenda (Item 1).....	4-6
Matters referred by the Codex Alimentarius Commission and other Codex committees (Item 2).....	7-17
Draft Revised <i>Code of ethics for international trade in food including concessional and food aid transactions</i> (Item 3)	18-35
Proposal to amend the <i>Guidelines to Codex chairpersons and ad hoc intergovernmental task forces</i> (Item 4)	36-46
Review of the risk analysis policies of Codex committees (Item 5).....	47-58
Definition of the term “competent authority” (Item 6).....	59-63
Terms of reference of the Committee (Item 7).....	64-73
Discussion paper on the development of joint Codex/OIE standards (Item 8)	74-85
Discussion paper on co-hosting of Codex sessions (Item 9).....	86-98
Distribution and length and content of reports (Item 10)	99-104
Structure and Presentation of the Procedural Manual (Item 11).....	105
Other business and future work (Item 12)	106-122
Date and Place of the Next Session (Item 13).....	123

LIST OF APPENDICES

Appendix I :	List of participants	15
Appendix II:	Draft revised <i>Code of ethics for international trade in food including concessional and food aid transactions</i>	40
Appendix III:	Proposed amendment to the <i>Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces</i>	41
Appendix IV:	Proposed amendment to the terms of reference of the Committee on General Principles	42
Appendix V:	Proposed amendment to the <i>Guidelines for host governments of Codex committees and ad hoc intergovernmental task forces</i>	43
Appendix VI:	Information to be posted on the Codex website	44

SUMMARY AND CONCLUSIONS

Matters for adoption by the Commission:

The Committee agreed to forward to the Commission the:

- Draft Revised *Code of ethics for international trade in food including concessional and food aid transactions* at Step 8 (para 35, Appendix II).
- Proposed amendment to the *Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces* (para 46 and Appendix III).
- Proposed amendment to the *Guidelines to Host Governments of Codex Committees and Ad Hoc Intergovernmental Task Forces* (para 98 and Appendix V).
- The Committee endorsed the *Proposed Draft Risk Analysis Principles and Procedures Applied by the Codex Committee on Food Hygiene* provided by the CCFH (para 16).
- The Committee endorsed the the proposal for the amendment of the section on food additives in the *Format for Codex Commodity Standards* (para 17).

Matters of interest to the Commission:

- The Committee agreed that there was no merit in having a general definition of the term “competent authority” (para 63).
- The Committee agreed to circulate the revised terms of reference for comments and further consideration at the next session (para 73 and Appendix IV).
- The Committee agreed to circulate the working document CX/GP 10/26/8 on Joint Codex/OIE standards for discussion at the next session (para 85).
- The Committee agreed that the Codex secretariat would create a specific page on co-hosting on the Codex website (para 98 and Appendix VI).
- The Committee agreed to consider a discussion paper on standards held at step 8 (para 115).
- The Committee agreed to consider the development of a mechanism for examining economic impact statements (para 121).

Matters of interest to other Committees

CCFA, CCCF, CCRVDF, CCPR, CCNFSDU, CCFH:

- The Committee agreed to forward the review presented in CL 2010/1-GP to the committees for consideration and review of their risk analysis policies (para 55).
- The Committee agreed to forward a proposal to amend the definition of the term “hazard” to the committees (para 58).

INTRODUCTION

1. The Codex Committee on General Principles (CCGP) held its Twenty-sixth Session in Paris, France, from 12-16 April 2010 at the kind invitation of the Government of the French Republic. Professor Michel Thibier (France) chaired the session. The session was attended by 209 delegates representing 81 member countries, one Member Organization (European Union), and 14 international organizations. A full list of participants, including the Secretariat, is attached as Appendix I.

2. Mr Joël Tozzi, Conseiller de Mr Hervé Novelli, Secrétaire d'État chargé du commerce, de l'artisanat, des petites et moyennes entreprises, du tourisme, des services et de la consommation welcomed the participants on behalf of the French Government. He recalled that France had always supported the goals of the Codex Alimentarius Commission, protecting the health of consumers and ensuring fair practices in the food trade, nationally and internationally using international standards. He said that the Codex Alimentarius Commission with its committees had the difficult task to find a consensus on complex issues with a diverse membership. He expressed satisfaction that the Codex trust fund had enabled 30 additional countries to participate in the present session. He said that the CCGP was the custodian of the principles of Codex ensuring the transparency and inclusiveness of the standards setting procedure and the coherence of application among Committees. He stressed the importance of finding a consensus on the finalisation of the revision of the Code of ethics. He said that there was general agreement that the best way to protect the consumer was through a system of rules and controls though the reality was different from country to country which is why the Code was needed. He wished delegations success in their deliberations.

Division of Competence

3. The Committee noted the division of competence between the European Union and its Member States, according to paragraph 5, Rule II of the Procedure of the Codex Alimentarius Commission, as presented in CRD 1.

ADOPTION OF THE AGENDA (Agenda Item 1)¹

4. The Committee agreed to adopt the Provisional Agenda as proposed in document CX/GP 10/26/1 as the agenda for the session and noted that documents CX/GP 10/26/5-Add.1 and 10/26/11 had not been prepared.

5. One delegation noted that several working documents had been issued very late and that it was important to have working documents at least two months before the session as mandated in the Procedural Manual in order to have an informed discussion. The Committee decided to review this issue under agenda item 10.

6. Following a question from a delegation the Chairperson clarified that it would be the Committees' decision, to what extent to discuss item 8 on possible joint Codex/OIE standards because many delegations had received the document only at the session.

MATTERS REFERRED TO THE COMMITTEE (Agenda Item 2)²

7. The Committee noted several items were submitted to it for information or would be further considered under relevant agenda items.

Procedure for standards and related texts held at step 8

8. The Committee noted that the Commission had the possibility to hold texts at step 8 but that the Procedural Manual contained no further guidance on this matter.

9. Many delegations were of the opinion that it was important to have guidance on the conditions when a text could be held at step 8 and what should be done if a text had been held at step 8 for some time and no new scientific information had become available.

10. The Committee noted a proposal to establish an electronic working group on developing guidance on this issue. The Committee decided to discuss the issue under agenda item 12.

¹ CX/GP 10/26/1

² CX/GP 10/26/2, CX/GP 10/26/2-Add.1, CRD 2 (comments of the European Union)

Codex Committee on Food Hygiene (CCFH)

11. The Committee noted that the CCFH had submitted *Proposed Draft Risk Analysis Principles and Procedures Applied by the Codex Committee on Food Hygiene* with an *Annex on the Process by which the Codex Committee on Food Hygiene will undertake its work* for review, asking the CCGP to take care of inconsistencies between the Working Principles for Risk Analysis in Codex and the CCFH document with a view to submitting the text to the 33rd Session of the Commission for adoption and inclusion in the Procedural Manual.

12. The delegation of the European Union had prepared comments in CRD 2 proposing to remove overlap between the *Annex* and the main document by retaining in the annex only the process for considering proposals for new work (paras 3, 4, 6, 7 and 8) and deleting the other paragraphs.

13. The Delegation of the United States speaking as Chair of the CCFH recalled that the mandate of the CCGP was only to review for inconsistencies and not to rewrite the document, which had been developed and agreed in the CCFH over a lengthy period of time. It was suggested that the document should either be endorsed as it was or referred back to the CCFH if larger amendments were proposed in the review.

14. The Secretariat recalled that a similar document to the present Annex had been considered by the 23rd Session of the Committee (2006)³. At that time one of the recommendations made was that the CCFH develop a document on its risk analysis policies. This had been done for the present main text while the *Annex* still contained both provisions on risk analysis and work management and some proposals in this respect were included in CL 2010/1-GP.

15. One delegation was of the view that as the CCGP had been asked to resolve inconsistencies something should be done to optimise the text, especially as regards the *Annex*.

16. The Committee however decided to endorse the text as proposed.

Codex Committee on Food Additives (CCFA)

17. The Committee endorsed the proposal for the amendment of the section on food additives in the *Format for Codex Commodity Standards* in the Procedural Manual as submitted.

DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOODS INCLUDING CONCESSIONAL AND FOOD AID TRANSACTIONS (Agenda Item 3)⁴

18. The Committee recalled that the 32nd Session of the Commission had adopted the Draft Code at Step 5 and had emphasised the need to finalise this work within the next session of the Committee on General Principles. The Committee considered the Draft Code section by section and made the following amendments and comments.

Title

19. In reply to some questions, the Committee recalled that its last session had amended the title as a consequence of the amendment to the Scope when the footnote concerning the applicability of the text to concessional and food aid transactions was integrated into the main text.

20. The Committee noted that there were some errors and discrepancies in the Spanish version of the text and welcomed the proposal from the Delegation of Mexico to prepare a revised text in Spanish in order to ensure consistency between the English and Spanish texts.

Article 1. Objective

21. The Committee agreed to indicate that the Code would establish principles of ethical conduct “~~thereby in order to~~ protect the health of the consumers...” for clarification purposes.

Article 3. Principles

22. In section 3.1, the Committee noted the proposals to replace the end of the sentence with “ensuring fair practices in the food trade” or to delete the end of the sentence and to include only a reference to Article

³ CX/GP 06/23/2 Part II

⁴ CL 2009/27-GP, CX/GP 10/26/3 (comments of Canada, Colombia, Costa Rica, Dominican Republic, Egypt, European Union, Iran, Japan, Kenya, Mexico, New Zealand, Philippines, Thailand, United States), CX/GP 10/26/3-Add.1 (comments of Guatemala, IBFAN), CRD 3 (comments of Nigeria), CRD 6 (comments of Thailand)

1. Several delegations however pointed out that Article 1 reflected the objective of the Code while Article 3 described the principles and therefore the current text was necessary. As a result section 3.1 was left unchanged.

23. The Committee noted the comments of Colombia, who was not present at the session. Some delegations supported their proposals for amendments of section 3.2, which were considered in the discussion.

24. In section 3.2 b), taking into account several proposals for clarification, it was agreed to clarify the description of food that should not be in international trade as consisting of “filthy, putrid, rotten, decomposed or other substance or foreign matter, which renders it unfit for human consumption”.

25. As regards section 3 d) on labelling, the Committee discussed a proposal to exclude food labelled in a manner that is “incomprehensible”, which would cover the issues of languages and of readability. Some delegations however pointed out that this term would be difficult to define as it was rather subjective, and it was not clear how it could be applied at the export stage. Some delegations also pointed out that such issues should be addressed by national legislation in the importing countries. The Committee therefore retained the current text.

26. In section 3.2 e) a reference to “processed” food was added in order to cover all stages of the food chain. The Committee considered a proposal to clarify the meaning of “unsanitary conditions” by referring to the *Guidelines on the Judgment of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems* to convey that the same objective can be attained by different sanitary measures. Several delegations however pointed out that the purpose of these Guidelines was very different from that of the Code and were not relevant in the framework of the Code, and the current text was retained.

27. With regard to the current text of section 3.2. f) several delegations pointed out that the term shelf life was not defined in codex texts and is interpreted differently which created serious problems in international trade. The Committee considered several proposals to amend the section: referring to “date mark”, listing other alternative terms used in the *General Standard for the Labelling of Prepackaged Foods*; specifying that enough time should be left for consumption, in addition to distribution; and specifying the percentage of the shelf life that should be left at the import stage. Other delegations expressed the view that the current text was adequate as the purpose of the Code was to define principles and how these would be applied in practice should be left to national authorities.

28. After some discussion, the Committee agreed to replace “shelf life” with “expiration date” and to retain the rest of the text unchanged.

29. The Delegation of Cameroon proposed to insert a new paragraph to address the issue of labelling in languages not understood in the importing country. Some other delegations however pointed out that technical implementation was not within the scope of the Code and that general labelling issues, including the use of languages, were covered in the *General Standard for the Labelling of Prepackaged Foods*.

Article 4

30. In section 4.2, the Delegation of Guatemala proposed to refer to food safety requirements instead of “minimum requirements”. Several delegations supported the deletion of the term “minimum”, recognizing that it could create confusion as each country applied its national requirements. There was extensive discussion on the proposal to restrict the provisions of the code to food safety as several delegations pointed out that the Code covered all aspects of food standards, such as labelling that was specifically mentioned in other sections, and therefore both food safety and quality should be addressed. The Committee agreed to delete the term “minimum” from section 4.2.

31. The Delegation of Tunisia expressed the view that there should be no exception to the requirement for exporting and importing countries to use international standards, and that the current text was not acceptable as it allowed exporting countries to export food that did not comply with Codex standards and importing countries to apply stricter standards, which was in contradiction with the provisions of the WTO Agreements. After some discussion, the Committee agreed to insert a footnote to the effect that multilateral agreements include the WTO Agreements as applicable to WTO members.

32. In section 4.4, several delegations and one Observer, recalling that the Code of Ethics was of a general nature, expressed the view that it should not single out specific products and therefore proposed to delete the reference to the *International Code of Marketing of Breast Milk Substitutes*. It was also pointed out that

recommendations concerning infant feeding were addressed in the Committee on Nutrition and Foods for Special Dietary Uses and that there was no need to repeat such provisions in the Code of Ethics. Other delegations and one observer proposed to retain this reference even if such provisions also existed in other texts, as it addressed an important issue, which was especially critical for developing countries.

33. The Representative of WHO recalled that non-compliance with the *Code of Marketing of Breast Milk Substitutes* was a serious ethical problem and therefore supported maintaining the reference to that Code. The Representative of FAO supported this view, noting that this reference would highlight the importance of applying the *Code of Marketing* in international trade. The Committee agreed to retain the current text unchanged.

34. The Committee recognized that all issues had been considered thoroughly and satisfactorily addressed and therefore the revised Code could be finalized for adoption.

Status of the Draft Revised Code of Ethics for International Trade in Foods including Concessional and Food Aid Transactions

35. The Committee agreed to advance the Draft Revised Code, as amended at the current session, to Step 8 for adoption by the 33rd Session of the Commission (See Appendix II).

PROPOSAL TO AMEND THE GUIDELINES TO CHAIRPERSONS OF CODEX COMMITTEES AND AD HOC INTERGOVERNMENTAL TASK FORCES (Agenda Item 4)⁵

36. The Committee recalled the discussion on the concept of consensus and its application in Codex at its 25th session where the Delegation of Malaysia had proposed to include in the *Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces* in the section on consensus in front of the paragraph starting with the words “The chairperson should also consider...” the following new paragraph: “Where there is justified sustained opposition to substantial issues the chairperson should ensure that the views of concerned members be taken into consideration by reconciling conflicting arguments before deciding that a consensus has been reached”.

37. There was no consensus on this question at the CCGP⁶ and the Commission decided to ask the Secretariat to issue a circular letter and that the CCGP discuss the results at its present session⁷.

38. The delegation of Malaysia recalled that they had proposed the amendment with the goal of ensuring transparency in consensus building in addition to the existing measures to facilitate consensus because in its view chairs presently had too much power to impose consensus. The delegation clarified that the terms “justified” and “opposition” were already used in the Procedural Manual.

39. Many delegations supported the proposal of Malaysia in principle.

40. Some delegations proposed the deletion of the word “justified” as it would be difficult to apply. Another delegation proposed to exchange “justified” with “informed”. Other delegations proposed the deletion of the first part of the text and start with “The Chairperson should ensure...”, as this part contained the relevant guidance to chairpersons, and to replace “reconciling” with “striving to reconcile” because it might not in all situations be possible to reconcile positions.

41. Other delegations stressed the responsibility not only of the chairperson but of the whole committee to reach consensus and proposed to add the following text to subparagraph (b) of the measures to facilitate consensus: “and conflicting arguments are fully considered”.

42. One delegation was of the opinion that the *guidelines* were adequate as they stood and the proposal was already covered.

43. One observer felt that chairs had too much power determining consensus and it was imperative to give more direction to their role. The observer suggested to include the WTO definition for consensus: “if no member present at the meeting where the decision is taken formally objects to the decision of the meeting”.

44. One delegation mentioned that the Commission had been working successfully on improving the

⁵ CL 2009/26-GP, CX/GP 10/26/4 (Canada, Colombia, Costa Rica, Dominican Republic, Egypt, Iran, Japan, Kenya, Philippines, New Zealand, United States), CX/GP 10/26/4-Add.1 (comments of European Union), CX/GP 10/26/3-Add.2 (comments of Argentina, Brazil, Guatemala) and CRD 4 (comments of Indonesia)

⁶ ALINORM 09/32/33, paras 83-86

⁷ ALINORM 09/32/REP, paras 212-218

situation through providing training for chairs and giving them the opportunity to learn from feedback from satisfaction surveys that were now routinely used in Codex committees and the Commission.

45. After some discussion the Committee agreed: to retain the first part of the Malaysian proposal with the deletion of the terms “justified”, “sustained” and replacement of “substantial issue” with “an issue under discussion”; to replace “reconciling” with “striving to reconcile” and to replace the words “that a consensus has been reached” with “whether a consensus has been reached.”

Conclusion

46. The Committee agreed to propose to the Commission to amend the *Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces* as contained in Appendix III to this report.

REVIEW OF THE RISK ANALYSIS POLICIES OF CODEX COMMITTEES (Agenda Item 5)⁸

47. The Committee recalled that this item was considered in the framework of the Strategic Plan 2008-2013 – Activity 2.1 “Review of the consistency of risk analysis principles elaborated by the relevant Codex Committees”, with a deadline of 2011. Following a general discussion at the last session, it had been agreed that the Secretariat would prepare a revised document and circulate it for comments.

48. The Secretariat highlighted the main general issues that had been identified in the review and the proposals for consideration by the Committee: reordering the texts according to the three components of risk analysis; defining risk assessment policy more clearly; developing risk communication further where appropriate; integrating into a single text all provisions on risk analysis and considering the deletion of procedural elements. Some questions were also put forward for consideration by specific committees, for example whether additives and contaminants should be addressed in separate documents.

49. Several delegations noted that the main elements of risk analysis were included in the risk analysis policies developed by Codex Committees, even if they did not always follow the format of the *Working Principles for Risk Analysis*. They pointed out that if the documents were reordered, they may become less readable and more difficult to use. This would also create an additional workload for Committees which should focus on developing standards for food safety. It was also proposed to limit the recommendations to an editorial reordering of the provisions without considering substantial amendments.

50. Several proposals were put forward in the discussion: asking the views of the Committees concerned and considering their proposals before proceeding further in the CCGP; reviewing the consistency in the application of risk analysis in various committees; and asking the views of FAO and WHO especially regarding the interaction between risk managers and risk assessors.

51. The Delegation of New Zealand expressed the view that the risk analysis principles developed by various committees had mainly repeated the overarching framework of the *Working Principles* with some adjustment, and should rather concentrate on the specificities of each risk analysis process, especially through the development of an adequate risk assessment policy. The Delegation proposed that committees should explain in particular how they took into account uncertainties and other legitimate factors in the risk analysis process and that this might be assisted by a working group of CCGP.

52. The Committee noted a proposal to review the use of the term “evaluation” and to replace it with the more adequate term “assessment” throughout the risk analysis documents developed by Codex Committees.

53. Some delegations expressed the view that two separate risk analysis documents should be developed for food additives and for contaminants

54. It was noted that the Committee on Pesticide Residues (CCPR) was revising its risk analysis policies and it was suggested to forward some general recommendations to the CCPR, for consideration as part of the revision process.

Conclusion

55. The Committee agreed that risk analysis policies developed by Codex committees were generally consistent with the *Working Principles for Risk Analysis*, which complied with the mandate given to the Committee under Activity 2.1. The Committee also agreed to forward the review presented in CL 2010/1-GP

⁸ CL 2010/1-GP, CX/GP 10/26/5 Part 1 (comments of Australia, Chile, Costa Rica, European Union, Kenya, CRN), CX/GP 10/26/5-Part 2 (comments of India, Indonesia, Japan, Thailand, United States), CRD 9 and 11 (comments of CRN)

to the committees concerned for their consideration and review of their risk analysis policies, which would initiate Activity 2.2 of the Strategic Plan.

Nutrition and Foods for Special Dietary Uses

56. The Observer from CRN pointed out that the definition of hazard in the Procedural Manual, referring to an "agent" was different from the definitions used in authoritative scientific documents relating to nutrient risk assessment, which referred to "effect" and therefore proposed to insert the following footnote to the definition of "hazard" in the Procedural Manual: *"This definition of hazard as an agent differs from the definition as an effect in many of the authoritative scientific references cited by several Codex committees in their documents on risk analysis. This difference should not be interpreted as producing any conflict in the interpretation or application of the Working Principles of Risk Analysis."*

57. Some delegations expressed the view that the current definition of "hazard" was consistent with the definition of nutrient-related hazard and that there was no need to revise it or to include an additional footnote. Another delegation proposed an amendment to the present definition, and it was also suggested to refer this proposal to the CCNFSDU as it was mainly related to nutritional risk assessment.

58. The Committee could not reach a conclusion on this proposal at this stage and in view of the general relevance of the "hazard" definition, agreed to forward the above proposal to the committees concerned (CCFA, CCCF, CCRVDF, CCPR, CCNFSDU, CCFH) for advice and to consider this question further at its next session, taking into account the views of these Committees.

DEFINITION FOR THE TERM "COMPETENT AUTHORITY" (Agenda Item 6)⁹

59. The Committee recalled that the 32nd Session of the Commission noted the discussion that took place in the Executive Committee in relation to the different terms and definitions used in a variety of Codex texts for "competent authority" and endorsed the recommendation of the Executive Committee that the CCFL and CCNFSDU harmonize the terms used within their remit and that the Committee on General Principles be requested to look into the merit of developing a general definition for "competent authority" for inclusion in the Procedural Manual.¹⁰

60. The Delegation of Australia speaking as Chair of the CCFICS said that the CCFICS had discussed the issue and concluded that the term "competent authority" was taken to mean "the government agency having jurisdiction" and was highly relevant to the work of CCFICS and was extensively used in 8 of the 9 texts developed by CCFICS; the CCFICS had considered defining the term at previous sessions but concluded that the term was self-explanatory and defined through its use in CCFICS texts and, therefore, a general definition would impact on each of these texts; and the term was used by many governments and thus a general definition should not exclude any of these uses.

61. Many delegations agreed with the opinion of the CCFICS that the term was rather self-explanatory and it was mentioned that the diversity of definitions proposed in the comments meant that a general definition would either have to be very general to encompass all possible uses or very complicated which would restrict its usefulness. It was also mentioned that the current existing definitions in Codex texts had been drafted to allow flexibility. It was also mentioned that no problem had been identified with the absence of a general definition and it would be appropriate to leave the definition of the tasks and role of the competent authority to Codex members.

62. Several delegations were of the opinion that a Codex definition for the term "competent authority" could be useful to harmonize the term and to give guidance especially to developing countries. A number of delegations had proposed a definition in their comments. Some of the delegations that had favoured a definition of competent authority in their comments said that the arguments of the CCFICS had convinced them that the problems with creating such a definition might outweigh the benefits.

⁹ CL 2009/36-GP; CX/GP 10/26/2; CX/GP 10/26/6 (comments of Chile, Colombia, Costa Rica, Dominican Republic, Egypt, Guatemala, Indonesia, Iran, Kenya, Malaysia, Mexico, Philippines, United States); CX/GP 10/26/6-Add.1 (comments of Japan); CX/GP 10/26/6-Add.2 (comments of Brazil); CRD 3 (Nigeria), CRD 8 (Ecuador) and CRD10 (Panama)

¹⁰ ALINORM 09/32/REP, para 105

Conclusion

63. The Committee agreed that there was no merit in having a general definition of the term “competent authority”.

TERMS OF REFERENCE OF THE COMMITTEE (Agenda Item 7)¹¹

64. The Committee recalled that its last session had proposed to the Commission to delete the second sentence of its terms of reference as it referred to the acceptance procedure and referred to previous activities but did not describe its current responsibilities. The Commission did not adopt the amendment as there was no consensus on the deletion of some provisions, and requested the CCGP to review its terms of reference.

65. The Committee considered the terms of reference proposed by the Secretariat in CL 2009/37-GP and made the following amendments and comments.

66. In the first paragraph, it was agreed to insert a reference to the Executive Committee, in addition to the Commission and its subsidiary bodies, and some editorial amendments were made.

67. Following some proposals for amendment of the second paragraph, the Committee agreed to clarify that the procedural provisions or texts considered were intended for inclusion in the Procedural Manual and deleted the examples as there was no need to list specific items of work. For the same reason, the fourth paragraph specifically referring to the code of ethics and risk analysis was deleted.

68. The Committee had an extensive discussion on the need to include the consideration of economic impact in the terms of reference. The Delegation of India, supported by other delegations, expressed the view that a mechanism should be developed to ensure uniform consideration of statements of economic impact across different Codex Committees, and therefore proposed the following addition: *“To develop a mechanism for examining any economic impact statements submitted by governments concerning possible implications for their economies of some of the individual standards or some of the provisions thereof.”*

69. The Delegation of Brazil, supported by other delegations, proposed that the Committee should evaluate any economic impact statement submitted by governments.

70. Several delegations pointed out that consideration of economic impact was integrated into the standard-setting process, as it was taken into account at the level of the Committees, and therefore did not support the establishment of a new mechanism.

71. The Committee recalled that provisions concerning the consideration of economic implications were included in the Elaboration Procedure at Steps 3, 5, 6 and 8.

72. Several delegations pointed out that, as the terms of reference were of a general nature and allowed the Committee to consider any procedural matter, there was no need to refer to specific items of work, but that this should not prevent the committee from considering the questions related to economic impact if required. Other delegations supported its inclusion in order to highlight its importance.

73. The Committee considered a proposal to discuss possible new work on economic impact statement under Agenda Item 12 and to forward revised terms of reference including only the three first paragraphs to the Commission for adoption. The Committee however recognized that it was not possible to reach a conclusion at this stage and agreed with the proposal of the Chairperson to circulate the revised terms of reference, as amended at the present session, with the paragraph on economic impact in square brackets for comments and further consideration at the 27th Session (see Appendix IV). It was also agreed to discuss further economic impact statements under Agenda Item 12.

DISCUSSION PAPER ON THE DEVELOPMENT OF JOINT CODEX/OIE STANDARDS (Agenda Item 8)¹²

74. The Committee recalled that at its 25th Session the OIE had proposed that the Committee “consider arrangements for the development of joint standards, which might address several areas of common interest with Codex, such as standards for controlling pathogens transmitted through food products of animal origin, use of antimicrobials in food producing animals, or commodity standards for meat products”. After some

¹¹ CL 2009/37-GP, CX/GP 10/26/7 (comments of Argentina, Chile, Colombia, Dominican Republic, European Union, Guatemala, Iran, Japan, Kenya, Malaysia, Philippines), CX/GP 10/26/7-Add.1 (comments of Brazil, United States), CRD 4 (comments of Indonesia), CRD 5 (comments of India).

¹² CX/GP 10/26/8

discussion the Committee had agreed that “the Codex Secretariat should approach the OIE Secretariat and prepare a discussion paper on the possible development of joint standards between Codex and OIE, addressing all relevant procedural and other issues, as well as implications”.

75. The Secretariat introduced the document which contained the history of the discussion on cooperation with international organisations and joint standards; the previously proposed procedure for developing joint standards; issues concerning joint standards with OIE; the rationale for the development of common OIE-Codex standards provided by the OIE secretariat; and a list of OIE texts having been developed making reference to Codex texts and a list of Codex texts making reference to OIE texts.

76. The Secretariat noted in particular that the proposed possibility and procedure to develop joint standards had not been retained because 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 process¹³. The Secretariat also noted that in the opinion of the legal services the procedure reproduced in the document was still valid. The Secretariat said that the existing mechanism for cooperation as contained in the Procedural Manual had worked well and had resulted in a number of texts that had been developed in cooperation with the OIE.

77. The observer from the OIE said that since 2001, the OIE mandate had included setting standards for animal production food safety, i.e. the management of risks arising in the phase from the farm to primary processing. The observer said that the OIE and CAC collaborated closely in the development of standards relevant to the entire food production continuum, taking care to avoid gaps, duplications and contradictions in these standards. The observer further said that in their view the development of common standards would give benefits by providing a single, seamless standard for the management of a particular food safety hazard at all stages in the food production continuum. Common standards could also lead to more efficient use of resources, avoiding duplication/contradictions between relevant OIE and Codex standards, ensuring that standards are based on the latest scientific information and assist in the harmonization of OIE and Codex procedures in standards setting. The observer mentioned, as a possible subject for common standards, the control of *Salmonella* in livestock.

78. The representative of the legal counsel of the FAO said that the document reflected the situation as it stood now. He pointed out that there were differences of procedure between Codex and OIE particularly with regard to inclusiveness and transparency; and that procedures for cooperation were in place. He said that the mandate given by the last CCGP did not offer the possibility to go beyond what was in the paper. The representative of the legal counsel of WHO supported this view.

79. Several delegations supported a close cooperation with the OIE and avoiding any duplication of work but said that due to the late availability of the document they were not in a position to discuss the content of the document. It was suggested that the Codex secretariat send a circular letter including the working document to request comments for discussion at the 27th Session of the CCGP.

80. The delegation of the United States noted that there was an opportunity to better define the roles and responsibilities of the two organizations and to discuss how they might best interact where the roles and responsibilities interface in order to avoid duplication and overlap. While there were many similarities between Codex and OIE work, their mission, priorities and processes were different; thus the delegation was of the opinion that the missions of the two organisations would be best served by separate, but coordinated work products.

81. The representative of the WHO informed the Committee that the World Health Assembly (WHA) at its May 2010 session would discuss a possible change to the WHO/OIE cooperation agreement, which presently did not make reference to Codex or Codex standards. He also informed the Committee that this year, for the first time in 10 years, food safety was on the WHA agenda and he invited delegations to liaise with their counterparts in ministries of health in order to bring any additional topics to their attention and also on the content of the relevant WHA resolution.

82. The representative of FAO expressed his support for a closer cooperation of Codex and OIE on all common issues. He said that FAO, Codex and OIE cooperated on many issues of common interest including those in the interface between food safety and animal health. He said that that it was for the Committee and

¹³ ALINORM 04/27/33A paras 97-109

ultimately the Commission to decide if this cooperation should include the development of joint standards in the future.

83. The observer of the WTO informed the Committee of a recent workshop which had been held back to back with the SPS Committee in October 2009 on the relation of the SPS Committee with the three international standard setting organizations (Codex, IPPC and OIE) The objective was to get a better understanding of the different processes with a view to foster closer cooperation and communication to ensure coherence and avoid contradictions while leaving the specific modalities to the individual bodies. The workshop had developed 11 recommendations which might be of relevance to the present discussion.

84. The observer of the OIE said that the OIE General Assembly would meet in the last week of May 2010 and would discuss food safety in the framework of the report of the Animal Production Food Safety Working Group and of other committees.

Conclusion

85. The Committee agreed that the Codex Secretariat would send a circular letter including the working document CX/GP 10/26/8 to request comments from members so that the issue could be discussed in depth at the 27th Session of the Committee.

DISCUSSION PAPER ON CO-HOSTING OF CODEX SESSIONS (Agenda Item 9)¹⁴

86. The Secretariat recalled that the 32nd Session of the Commission had discussed issues related to Codex sessions held under co-hosting arrangements on the basis of a study prepared by the Codex Secretariat¹⁵ in line with Activity 5.3 of the Codex Strategic Plan 2008-2013. The result of the study had been that while having a number of benefits, Members' participation in sessions held under co-hosting arrangements was lower than in sessions held in host countries and that several factors might have contributed to the reduced participation and including the late issuance of invitation letters due to delays in the acceptance of the Memorandum of Responsibilities by co-hosting countries.

87. The Secretariat introduced the proposals made in the document to expedite the formal processes for co-hosting of Codex sessions namely: (1) amendments to the *Guidelines for Host Governments of Codex Committees and ad-hoc Intergovernmental Task Forces* to clarify the terms used, make the practice more explicit and include the obligation to ensure the normal preparation of the session also under co-hosting arrangements; and (2) creating a page on the Codex website explaining how and in which timeframe the necessary arrangements between FAO, hosting country and co-hosting country should be agreed. The secretariat stressed that the principles for co-hosting arrangements between members such as selection of the co-hosting country were not a subject of the document and the present discussion.

General comments

88. The Representative of FAO confirmed that FAO was very much in favour of co-hosting as this was one way to bring the work of Codex to developing countries. He said that he would like to see it undertaken with a higher frequency especially by horizontal committees, which were of particular interest to developing countries.

89. Several delegations stated their support for the document.

90. The Delegation of Brazil also supported the proposals and stated their view that reasons for lower participation especially from developing country were varied and not only related to co-hosting arrangements. It said that increasing participation from developing countries was important to the legitimacy and democratic nature of the Codex process.

91. Some delegations said that the possibility of the sharing of costs for the session under co-hosting arrangements should also be mentioned in the document. The representative of FAO clarified that it was important to leave any arrangements between the host and the co-host to the two countries as the possibilities for co-hosting countries to contribute might vary and that the fact that meeting was co-hosted did not change anything concerning the financial obligations of the hosting country.

¹⁴ CX/GP 10/26/9 and CRD 7 (comments of USA)

¹⁵ ALINORM 09/32/REP, paras 157-168 and ALINORM 09/32/9B Part III

92. The Committee reviewed the proposals for amending the *Guidelines for Host Governments of Codex Committees and ad-hoc Intergovernmental Task Force* and the text to be put on the Codex website and made the following additional comments.

Chairperson and hosting country

93. Following a question a separate section “Rapporteurs” was created to avoid confusion. It was also clarified that some committees followed the practice of designating rapporteurs and that this possibility existed also for the Commission.

Co-chairing

94. One delegation was of the opinion that the actual chairing of a session should be the responsibility of the appointed chairperson to ensure continuity and accountability. Other delegations including some speaking as host country of Codex committees said that in their opinion co-chairing had been a good learning opportunity both for the chair and the co-chair and the possibility for such an arrangement should be maintained.

95. After some discussion it was decided to rewrite the sentence to clarify that co-chairing could only be used in co-hosted meetings.

Text on co-hosting to be put on the Codex website

96. The Committee agreed to the proposal from the United States who proposed in CRD 7 a stricter schedule in the table included in the text based on their experience with a number of sessions held under co-hosting arrangements.

97. Following a question on the granting of privileges and immunities to attendees of Codex sessions it was clarified by the representatives of the legal counsels of both FAO and WHO that this was common practice of FAO and WHO in agreements with host-countries also taking into consideration the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies.

Conclusion

98. The Committee agreed to propose to the Commission to amend the Guidelines for Host Governments of Codex Committees and ad-hoc Intergovernmental Task Forces as indicated in Appendix V to this report. The Committee also agreed that the Codex secretariat would create a specific page on co-hosting on the Codex website to make the information as contained in Appendix VI available to all members.

DISTRIBUTION OF DOCUMENTS AND LENGTH AND CONTENT OF REPORTS (Agenda Item 10)¹⁶

99. The delegation of Chile recalled that the 32nd Session of the Commission had agreed that Chile supported by other countries would prepare a discussion paper including recommendations on ways to approach the timely and simultaneous distribution of documents and the length and content of reports taking into account concerns raised at the Commission and from the FAO/WHO Coordinating Committee for Latin America and the Caribbean, for consideration at the present session of the CCGP. The delegation said that the document had been submitted late and was a preliminary document because it was intended to present it first to the CCLAC before discussing it in detail in the CCGP.

100. Many delegations thanked Chile for the preparation of the document. The following remarks were made in the exchange of views:

- The document could be sent also to the other FAO/WHO coordinating committees.
- It was important to identify the source and extent of the problems and that for this it would be useful to investigate the delays and have statistics e.g. to find if the delay was universal to all committees.
- Host countries can help in speeding up translations.
- Guidance on the length of reports already exists in the Procedural Manual.
- Audio-recordings could increase transparency.
- Audio-recordings of interpretations could lead to increased costs for host countries.
- The simultaneous distribution of documents is important.

¹⁶ CX/GP 10/26/10 (Chile)

- Late distribution of documents is not always the fault the Codex Secretariat but there is a shared responsibility for all parties to respect the relevant deadlines.

101. The Secretariat said that the delay in document distribution was less a problem of funding as mentioned in the document but of timing and organisation as documents arrived late in English, sometimes because of delays in the Secretariat and sometimes because they arrived late from working groups or members. On the length of the reports the Secretariat said that an attempt was made on a case-by-case basis to strike a balance between the need to adequately report discussions and to focus on the results.

102. It was mentioned that if the document from Chile was to be sent to other Committees it should be amended to take into account the information given by the Secretariat and other Comments made at the session.

103. The Secretariat clarified that only the Commission referred documents to the FAO/WHO coordinating committees and these Committees established otherwise their own agendas but that the item could be included as a matter for information in the relevant document and the committees could decide whether they wished to discuss it. Concerning the possibility to prepare statistics on timing of document distribution, the secretariat said that the dates of submitting the documents for translation and the arrival of the different language versions were available and a table of statistics could be prepared from now onwards but it would be difficult to prepare it for past meetings.

Conclusion

104. The Committee agreed that the document would be discussed in the CCLAC and submitted for information to the other coordinating committees and the issue would remain on the agenda of the CCGP for discussion at its next session.

STRUCTURE AND PRESENTATION OF THE PROCEDURAL MANUAL (Agenda Item 11)

105. The Committee noted information by the Secretariat that the Procedural Manual had been restructured and the creation of an index had been deferred to a later time after consolidation of the section on risk analysis. The Committee also noted the invitation to submit any comments on the new structure of the Manual directly to the Secretariat.

OTHER BUSINESS AND FUTURE WORK (Agenda Item 12)

Standards and related texts held at step 8¹⁷

106. Following the discussion of this question under agenda item 2, the delegation of the Netherlands proposed two possibilities to move forward: (1) the Committee asks volunteers to prepare a discussion paper analyzing the issues surrounding holding standards at Step 8 for the next session or (2) the Committee creates an electronic working group with the task of preparing such a discussion paper.

107. Some delegations while appreciating the concern on standards held at Step 8, were of the opinion that the Procedural Manual and specifically the of the *Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to which Other Factors are taken into Account* contained sufficient guidance to deal with the issue on a case-by-base basis and that no new work was needed. It was also mentioned that the number of standards held at Step 8 was small so that it was not clear if new procedures would add much benefit.

108. Many other delegations supported the need to clarify the issue and after some discussion the Committee agreed that a discussion paper should be developed by an electronic working group while taking care not to put in question or reopen any existing principles. Different proposals were made concerning the terms of reference of such a group.

109. The delegations of the Netherlands and Canada offered to co-chair the electronic working group and proposed as terms of reference to examine issues surrounding paragraph 5 of the *Procedures for the elaboration of Codex standards and related texts* and in particular the second sentence to have description of the issues that most result in holding texts at step 8 taking into account risk analysis guidelines and not reopening any discussion on statements of principle.

¹⁷ CRD 13 (Canada and the Netherlands)

110. Many delegations stated that while it was important to analyze the situation, it was equally important to make recommendations. Other delegations noted that the terms of reference should not pre-judge any outcomes of the electronic working group and that one outcome could be a recommendation for no change.

111. To this end the Chairperson proposed the following terms of reference: (1) To clarify the rationale for the Commission to have the possibility to hold texts at step 8; (2) If benefit was seen to have this option what should be the conditions under which the Commission may decide to hold a text at Step 8; and (3) The procedure following a decision to hold a text at Step 8. This was supported by many delegations in some cases with slight modifications to the wording.

112. One delegation stated that they preferred to delete the possibility of holding texts at step 8 and while this solution might appear extreme it should not be excluded that an analysis of the issue could lead to this result. In case this was not possible the delegation preferred to have conditions for holding texts a step 8 and a follow-up procedure developed by the working group as suggested by other delegations.

113. One delegation was of the opinion that the terms of reference should contain the development of guidelines on how the Commission reports on holding standards at Step 8. The delegation said that if the report of the commission clearly stated the reasons why a document was been held at step 8 those reasons would be widely known and the matter could be considered from a new angle.

114. Following a question the Secretariat clarified that the Committee could begin work on procedural issues without need for a project document that would have to go through the critical review process and that in general discussion papers did contain recommendations.

Conclusion

115. The Committee agreed to establish an electronic working group led by the Netherlands and Canada and working in English only, open to all members and observers with the following terms of reference:

(1) To prepare a discussion paper examining the issues surrounding paragraph 5 of the *Procedures for the elaboration of Codex Standards and Related Texts* and in particular the second sentence of this paragraph.

(2) The discussion paper will describe the issues that result in draft standards being held by the commission at Step 8, even though the subsidiary body responsible for drafting the standard had concluded its work taking into account the *Working Principles for Risk Analysis for Application in the Framework of the Codex Alimentarius*.

(3) It should be noted that the *Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to which Other Factors are taken into Account* are not subject to discussion and are not to be reopened.

(4) The discussion paper will suggest what recommendations CCGP may wish to consider at its 27th Session.

116. The Committee also agreed that the work started on this issue by the working group would not affect the disposition of any ongoing work.

Economic impact statements

117. Following the discussion on the terms of reference under Agenda Item 7, the Committee considered the opportunity of developing a mechanism for examining of economic impact statements.

118. The Delegation of Malaysia proposed to establish an electronic working group with the mandate of developing a mechanism for examining any economic impact statements. Several delegations supported this proposal in view of the importance of taking into account economic impact in the standard setting process. The Delegation of Brazil offered to co-chair the working group.

119. Other delegations expressed the view that it was premature to consider a procedure to examine economic impact statements, as there was no harmonized format for such statements, and proposed that the Secretariat develop a template for governments to present economic impact statements, for consideration by the next session, before initiating any new work on this subject.

120. Several delegations pointed out that if a working group was established to consider all relevant aspects of economic impact statement, it could also work on the development of a template.

Conclusion

121. The Committee agreed to establish an electronic working group working in English only and co-chaired by Malaysia and Brazil, with the mandate of developing a mechanism for examining any economic impact statements submitted by governments concerning possible implications for their economies of some of the individual draft standards or some of the provisions thereof, including the development of a template or harmonized format for the submission of such economic impact statements.

Information from WTO

122. The Observer from WTO informed the Committee that the Standards and Trade Development Facility (STDF) had convened a workshop on the use of economic analysis to inform SPS decision-making in October 2009 and that information was available on the STDF website. The SPS Committee also had established a monitoring procedure in order to identify trade problems related to international standards in the following cases: non use of international standards, non existence of such standards, and inappropriateness of existing standards.

DATE AND PLACE OF NEXT SESSION (Agenda Item 13)

123. The Committee agreed to hold its 27th session in 2012 unless the Commission would decide otherwise. The Committee noted with gratitude the willingness of Mali to co-host its 27th session in Bamako. This possibility would be explored between France and Mali if the session was held in 2012.

SUMMARY STATUS OF WORK

SUBJECT MATTER	STEP	ACTION BY	DOCUMENT REFERENCE (ALINORM 10/33/33)
Draft Revised <i>Code of ethics for international trade in food including concessional and food aid transactions</i>	8	Governments, CAC33	para 35, Appendix II
Proposed amendment to the <i>Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces</i>	-	Governments, CAC33	para 46 and Appendix III
Proposed amendment to the <i>Guidelines to Host Governments of Codex Committees and Ad Hoc Intergovernmental Task Forces</i>	-	Governments, CAC33	para 98 and Appendix V
<i>Proposed Draft Risk Analysis Principles and Procedures Applied by the Codex Committee on Food Hygiene</i> provided by the CCFH	-	CAC33	para 16
Proposal for the amendment of the section on food additives in the <i>Format for Codex Commodity Standards</i>	-	CAC33	para 17
Amendment to the terms of reference of the Committee	-	Governments, CCGP27	para 73 and Appendix IV
Joint Codex/OIE standards	-	Codex secretariat, Governments, CCGP27	para 85
Standards held at step 8	-	Working group, CCGP27	para 115
Mechanism and template for examining Economic impact statements	-	Working group, CCGP27	para 121
Distribution of documents / length and contents of reports	-	Coordinating committees, CCGP27	para 104

APPENDIX I

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APPENDIX II

**DRAFT CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD INCLUDING
CONCESSIONAL AND FOOD AID TRANSACTIONS****(AT STEP 8)****ARTICLE 1 - OBJECTIVE**

1.1 The objective of this Code is to establish principles for the ethical conduct of international trade in food, in order to protect the health of the consumers and ensure fair practices in the food trade.

ARTICLE 2 - SCOPE

2.1 This Code applies to all food introduced into international trade including concessional and food aid transactions.

2.2 This Code establishes principles of ethical conduct to be applied by all parties involved in international trade in food. Governments should work with other parties to promote ethical conduct at the national level.

ARTICLE 3 - PRINCIPLES

3.1 International trade in food should be conducted on the principle that all consumers are entitled to safe, sound and wholesome food and to protection from unfair trade practices.

3.2 No food (including re-exported food) should be in international trade which¹:

- a) has in or upon it any hazard in an amount which renders it poisonous, harmful or otherwise injurious to health, taking into account the application of risk analysis principles; or
- b) consists in whole or in part of any filthy, putrid, rotten, decomposed or other substance or foreign matter which renders 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
- e) is prepared, processed, packaged, stored, transported or marketed under unsanitary conditions ; or
- f) has an expiration date, where applicable, which does not leave sufficient time for distribution in the importing country.

ARTICLE 4 – CONDITIONS NECESSARY FOR FOOD IN INTERNATIONAL TRADE

4.1 Competent authorities involved in assuring the safety and suitability of food in international trade should apply principles of ethical conduct as mentioned in Article 3

4.2 Without prejudice to the rights and obligations conferred by bilateral or multilateral² agreements, no food, including in the context of concessional and food aid transactions, should be allowed for export or re-export which does not comply with the requirements imposed by the legislation of the exporting country, unless otherwise established by the legislation as may be in force in the importing country or explicitly accepted by the competent authorities of the importing country, taking into account the provisions of Codex standards and related texts wherever appropriate.³

4.3 Food should not be placed in international trade for the purpose of disposing of unsafe or unsuitable food as described in 3.2.

4.4 National authorities should be aware of their obligations under the International Health Regulations (2005) with regard to food safety events, including notification, reporting or verification of events to the World Health Organisation (WHO). They should also make sure that the international code of marketing of breast milk substitutes and relevant resolutions of the World Health Assembly (WHA) setting forth principles for the protection and promotion of breast-feeding be observed.

¹ The provisions of Article 3.2 do not prevent the export of raw or semi processed foods which are not edible as such in order to be further processed, re-processed or reconditioned in the importing country for the purpose of human consumption.

² The reference to multilateral agreements includes the WTO agreements as applicable to WTO members.

³ Food standards and safety requirements of importing countries should be transparent and available to exporting countries.

APPENDIX III**PROPOSED AMENDMENT TO THE *GUIDELINES TO CHAIRPERSONS OF CODEX COMMITTEES AND AD HOC INTERGOVERNMENTAL TASK FORCES***
(for adoption by the Commission)

In the section on consensus in front of the paragraph starting with the words “The chairperson should also consider...”, insert the following new paragraph:

“Where there is opposition to an issue under discussion, the chairperson should ensure that the views of concerned members be taken into consideration by striving to reconcile conflicting arguments before deciding whether consensus has been reached.”

APPENDIX IV

**PROPOSED DRAFT AMENDMENT TO THE TERMS OF REFERENCE OF THE CODEX
COMMITTEE ON GENERAL PRINCIPLES
(for comments)**

Amend the terms of reference of the Committee as follows:

“To deal with such procedural and general matters as are referred to it by the Codex Alimentarius Commission or one of its subsidiary bodies and the Executive Committee.

To review and endorse procedural provisions/ texts intended for inclusion in the Procedural Manual forwarded by subsidiary bodies.

To propose amendments to the Procedural Manual of the Codex Alimentarius Commission.

~~Such matters have included the establishment of the General Principles which define the purpose and scope of the Codex Alimentarius, the nature of Codex standards and the forms of acceptance by countries of Codex standards; the development of Guidelines for Codex Committees;~~

~~[To the development of a mechanism for examining any economic impact statements submitted by governments concerning possible implications for their economies of some of the individual standards or some of the provisions thereof.]~~

~~the establishment of a Code of Ethics for the International Trade in Food.”~~

APPENDIX V

PROPOSED AMENDMENTS TO THE *GUIDELINES FOR HOST GOVERNMENTS OF CODEX COMMITTEES AND AD-HOC INTERGOVERNMENTAL TASK FORCES*
(for adoption by the Commission)

(1) Amend the sub-section “Chairperson” to read as follows:

“Chairperson and hosting country

The Codex Alimentarius Commission will designate a member country of the Commission, which has indicated its willingness to accept financial and all other responsibility, as having responsibility for appointing a chairperson of the Committee. In the following this country is referred to as “hosting country”

The hosting country ~~member country concerned~~ is responsible for appointing the chairperson of the Committee from among its own nationals. Should this person for any reason be unable to take the chair, the hosting country ~~member country concerned~~ shall designate another person to perform the functions of the chairperson for as long as the chairperson is unable to do so.

Rapporteurs

A Committee may appoint at any session one or more rapporteurs from among the delegates present.”

(2) Amend the sub-section “Sessions”:

“Sessions

Date and place

The hosting country ~~member country to which a Codex Committee has been assigned~~ is consulted by the Directors-General of FAO and WHO before they determine when and where a session of this Committee shall be convened. In determining the place of the session, consideration should be given to its accessibility.

Co-hosting arrangements

The hosting country ~~The member country~~ should consider arrangements for holding Codex sessions in developing countries.

The country, different from the hosting country, in which the session is held is in following referred to as “co-hosting country”.

The hosting country and co-hosting country should ensure that all arrangements necessary to hold a Codex session in the co-hosting country are completed in a timely manner so as to not interfere with the timeframe for the distribution of the official invitations to the session as mentioned in these guidelines.*

* Practical information and timelines for co-hosting arrangements can be found on the Codex website at: www.codexalimentarius.net/...

Co-chairing

The hosting country may invite the co-hosting country to appoint an official as a co-chair for the session.”

INFORMATION TO BE POSTED ON THE CODEX WEBSITE

PROCEDURE FOR CO-HOSTING ARRANGEMENTS

0. INTRODUCTION AND SCOPE

The *Guidelines for Host Governments of Codex Committees and ad-hoc Intergovernmental Task Forces* recommend in the section “Co-hosting arrangements” that the hosting country should “consider arrangements for holding Codex sessions in developing countries. The present guidance outlines the procedure to be followed to ensure a smooth holding of the session following the timelines as given in the above guidelines.

0.1 Assumptions

One of the pre-requisites for co-hosting of a Codex session is the willingness and commitment of a Codex subsidiary body’s host government to explore co-hosting arrangements for a session of the body concerned. The modalities for matching the hosting country and the co-hosting country are outside the scope of this document. This guidance assumes that a hosting country and a co-hosting country have agreed in principle on co-hosting the session and on how to separate the tasks and costs including eventual arrangements for co-chairing the session.

1. LOA/MOR with FAO

In order to be able to co-host a Codex session on its territory a co-hosting country needs to conclude a Letter of Agreement (LOA)/ Memorandum of Understanding (MOR) with FAO (examples in Annex 2 and 3 which may slightly vary depending on the country). The following are the typical contents of the MOR.

NOTE: “Host government” in this context means the government of the co-hosting country that for this session as co-host assumes the responsibilities of the host country.

1.1 *Part I - Operational responsibilities of FAO*

All services and staff provided by the Codex Secretariat for the session (preparation, holding and follow-up).

1.2 *Part II - Responsibilities of the host government with regard to privileges and immunities for FAO/WHO and participants*

This part contains the obligation to grant privileges (e.g. visa) and immunities to all participants and Codex staff. This is the most critical part of the MOR as these privileges are not the responsibility of the ministry responsible for Codex issues but the ministry of foreign affairs. Very often delays are due to questions on this part.

1.3 *Part III - Operational responsibilities of the host government*

This part covers the organisation of venue, translation and interpretation and equipment which is usually responsibility of the hosting country. In the MOR it is assumed that the co-hosting country will provide these services in cooperation with the hosting country. The arrangements for this are outside the responsibility of FAO or the Codex Secretariat and can be subject to a separate agreement between the host country and the co-hosting country.

2. SEQUENCE OF EVENTS

2.1 Before offering to co-host a Codex session – 14-24 months before the session

An aspirant co-hosting country should closely examine the principle conditions contained in the LOA/MOR to be concluded with FAO and ideally obtain clearance-in-principle from the diplomatic branch of its government, prior to contacting the hosting country for possible co-hosting. The roles and responsibilities of different Ministries involved should be clarified at a very early stage. The Codex Contact Point may play a positive role in facilitating and streamlining correspondence.

Consultation on key provisions such as privileges and immunities responsibilities should be undertaken only in official form and through official channels of competent authorities, and not as part of informal dialogue.

The substantive content of the MOR is neither negotiable nor modifiable. In other words, countries that are unable to accept the conditions set out in the MOR should not enter into negotiations to host an FAO intergovernmental session.

2.2 Letter of interest - 12-14 months before the session

The first step leading to the preparation of the MOR/LOA is the submission by a co-hosting country of a “letter of interest” that should be addressed to the Secretary of the Codex Alimentarius Commission. In some cases the expression of interest is initially announced by the co-hosting country at a preceding session of the Codex body; however, such oral declaration should be substantiated by writing (i.e. letter of interest) before a formal process is started.

There is no standard format for the letter of interest, or requirement as to the authority which should sign off the letter, provided that the authority is such that the intent for co-hosting is clear and the letter represents a formal offer on the part of the government concerned. As a minimum, the letter should contain an expression of interest / willingness of the country to host a given Codex session at a certain date. Additional information in the letter may refer to the underlying agreement with the hosting country, the venue of the session, the acceptance to undertake certain responsibilities regarding operations and granting immunities and visas. Annex 1 to this document provides an example of the content of such letter.

The letter of interest should be submitted as early as possible, as soon as the chairing and venue countries have reached an agreement regarding the co-hosting.

2.3 Letter of Agreement (LOA) and Memorandum of Responsibilities (MOR) – 1-2 months after receipt of letter of interest

Immediately upon reception of the letter of interest, the Codex Secretariat requests the relevant unit of FAO to prepare the LOA/MOR. This internal preparation process may take several weeks.

The LOA is a letter usually signed by the Director-General of FAO (also on behalf of the Director-General of WHO), addressed to the official channel of communication of the recipient country, requesting the co-hosting country to accept the responsibilities regarding the granting of privileges and immunities, granting of visas and other operational responsibilities set out in the accompanying MOR.

The format and content of the LOA and MOR are standardized and essentially do not differ from those established between FAO and the standing host governments of Codex bodies. In the case of co-hosting arrangements, the LOA/MOR may include specific references to the support of the hosting country extended to the co-hosting country, and to the shared responsibilities between the two countries for the provisions of certain services such as interpretation, translation of working documents and reports, meeting facilities, etc. Annexes 2 and 3 provide examples of the standard LOA/MOR.

It is important to note that the LOA/MOR follow the pre-determined official channels of communication between FAO and its Members, and that the Ministry to which the LOA/MOR is addressed is not necessarily the Ministry which will have the primary technical or logistic responsibility for co-hosting of the Codex session or the Ministry hosting the Codex Contact Point. The official channels of communication with FAO Members is available to accredited Permanent Representations to FAO (refer to the Permanent Representatives Website).

2.4 Letter of Acceptance and Conclusion of the Agreement – completed in 6 weeks the latest 9 months before the session

Agreement between FAO/WHO and the co-hosting country is concluded upon the receipt of a letter from the government of the co-hosting country accepting the responsibilities set out in the MOR. The letter of acceptance (either in the form of letter or fax) should contain a clear reference to the outgoing communication (LOA/MOR) from FAO.

The letter of acceptance is generally signed by an authorized official with the competence and power to undertake the commitments as set out in the MOR and that have been delegated to the government of the co-hosting country.

Under normal circumstances, the co-hosting country receiving the LOA/MOR is given six weeks' time to reply to the LOA/MOR and thus conclude the agreement with FAO.

The conclusion of agreement allows the Codex Secretariat to issue an Invitation Letter accompanied by a Provisional Agenda to all Members and Observers of the Codex Alimentarius Commission. It should be noted that according to Rule VII.4 of the Rules of Procedure of the Codex Alimentarius Commission the provisional agenda should be "*circulated by the Directors-General of FAO or WHO to all members of the Commission at least two months before the opening of the session.*"

2.5 Throughout the whole process

Efficient communication between the hosting country, the co-hosting country and the Codex Secretariat should be maintained throughout the whole process, in order to complete the required administrative arrangements in good time.

All communications concerning the LOA/MOR should be copied to relevant interested parties, including the Ministries in charge of official communication with FAO, the FAO Representation in the country, and the country's Permanent Representation to FAO.

2.6 No agreement at 9 months before the meeting

The Codex Secretariat may reschedule or relocate the Codex session if no agreement is reached 9 months before the planned date for the session, in order to avoid insufficient participation of members in the Codex session.

MAIN SEQUENCE OF EVENTS, THE RESPONSIBLE PARTY AND A TIMEFRAME UNDER THE BEST PRACTICE

	Events/steps	Responsible party	Timeframe
(i)	Discussions and decision to co-host	Hosting and co-hosting country	14-24 months before the session
(ii)	Letter of interest is sent to the Codex secretariat	Co-hosting country	12-14 months before the date of the session
(iii)	Codex Secretariat requests FAO to prepare LOA/MOR	Codex Secretariat	Immediately upon receipt of the letter of interest
(iv)	Letter of Agreement (LOA)/ Memorandum of Responsibilities (MOR) are sent to the co-hosting country	FAO (on behalf of FAO and WHO)	1 to 2 months after receipt of the letter of interest
(v)	Review and signing of LOA/	Co-hosting country	Completed in 6 weeks. If not signed by 9 months before the date of the session the meeting may be moved to another location or re-scheduled
(vi)	Logistical and contractual arrangements are completed for the meeting	Host-country and co-hosting country	8-10 months before the session
(vii)	Invitation and Provisional Agenda issued	Codex Secretariat	4-6 months before the date of the session

MODEL LETTER OF INTEREST

**Secretariat
Codex Alimentarius Commission
Joint FAO/WHO Food Standards Programme
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00153 Rome
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Dear ,

I wish to inform you that following discussions with the Government of [*name of the hosting country*], [*name of the co-hosting country*] would with great pleasure accept the responsibility to host the [*session number/name of the Committee/Task Force*] to be held [*venue / date of the session*].

[*Name of the co-hosting country*] is willing to enter into an agreement with Food and Agriculture Organization of the United Nations (FAO) granting relevant privileges and immunities to FAO/WHO officers and all invited delegations. [*Name of the co-hosting country*] will work closely with the Secretariat of [*name of the hosting country*] and the Joint FAO/WHO Codex Secretariat to ensure a successful organization of the session.

Sincerely,

STANDARD LETTER OF AGREEMENT / MEMORANDUM OF RESPONSIBILITIES

[Salutation]

I have the honour to refer to the *[reference to communication from hosting country containing agreement in principle]*, conveying your Government's willingness to provide host facilities for the *[session number/name of the Committee/Task Force]* to be held *[venue / date of the session]*.

I very much appreciate the generous offer made by your Government.

The Session is being convened within the framework of the Joint FAO/WHO Food Standards Programme. It is my intention to invite all Members of the FAO/WHO Codex Alimentarius Commission listed in Annex A. Notification of the Session will be given to the international organizations listed in Annex B who will attend as appropriate according to their specific field of interest.

Furthermore, other Member Nations or Associate Members of FAO and/or WHO, which are not members of the Codex Alimentarius Commission, or States which, while not Members of FAO or WHO, are members of the United Nations, as well as international organizations in relationship with FAO and/or WHO may be represented by observers at the Session, should they so request. The total number of participants is expected to be about *[xxx]*.

The Session, chaired by the *[name of the hosting country [and, if applicable in case of co-chairing, the name of the co-hosting country]]*, will be conducted in *[working languages of the committee/task force]*.

I should like to draw your attention to the responsibilities to be assumed by the Host Government and by FAO for the Session, as specified in the attached Memorandum of Agreement. Part II of this Memorandum sets out the responsibilities of the Host Government with regard to privileges and immunities and the granting of visas and all necessary facilities to participants.

I should appreciate receiving your Government's acceptance by letter or by fax of the responsibilities outlined in the attached Memorandum of Agreement as soon as possible so that invitations and documents may be prepared and issued in good time. This letter and your reply will constitute the Agreement covering the Session.

[Closing]

STANDARD MEMORANDUM OF RESPONSIBILITIES

TO BE ASSUMED BY THE GOVERNMENT OF [*NAME OF THE CO-HOSTING COUNTRY*] AND BY THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS FOR THE [*SESSION NUMBER/NAME OF THE COMMITTEE/TASK FORCE*]

The following provisions set out the respective responsibilities to be assumed by the Government of the [*name of the co-hosting country*], hereinafter referred to as the Host Government, and by the Food and Agriculture Organization of the United Nations, hereinafter referred to as FAO, acting on its behalf and on behalf of WHO, to ensure the smooth conduct of the [*session number and name of the Committee/Task Force*], hereinafter referred to as the Session, which forms part of the Joint FAO/WHO Food Standards Programme of the Organization.

The Session will be held in [*venue and date of the session*].

FAO will be responsible for organizing the Session, issuing all invitations and circulating the Provisional Agenda and working documents for the Session.

The Session will be conducted in [*working languages of the committee/task force*]. The Host Government, in collaboration with the Government of [*name of the hosting country*], will be responsible for providing interpreters whose curricula are to be cleared by the Chief FAO interpreter.

PART I - OPERATIONAL RESPONSIBILITIES OF FAO

A. Staff (at FAO's cost in accordance with FAO regulations)

FAO will:

1. Designate and make available the Secretary and Assistant Secretary of the Session, and other officers as may be required.
2. Bear all necessary costs of FAO staff provided, including salaries, subsistence allowances and travel to and from the Session.

B. Services

FAO will:

3. Arrange for the preparation of the draft report of the Session for adoption at the end of the Session.
4. Issue and distribute a report of the Session after its conclusion.

PART II - RESPONSIBILITIES OF THE HOST GOVERNMENT WITH REGARD TO PRIVILEGES AND IMMUNITIES FOR FAO/WHO AND PARTICIPANTS

The Host Government undertakes to:

5. Accord, for the purpose of the Session, to delegates and observers, and to FAO and WHO, its property, funds and assets as well as to FAO and WHO staff, all the privileges and immunities provided for in Article VIII, paragraph 4, and Article XVI, paragraph 2, of the Constitution and Rule XXXVIII-4 (Rule modified on 22 November 2009, ex article XXXVII) of the General Rules of the Organization, and specified in the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies.
6. Grant visas and all necessary facilities to delegates, observers and consultants attending the Session.

7. Hold FAO, WHO and their staff harmless in respect of any claims by delegates and observers or by other third parties arising out of the Session, except where it is agreed by the Host Government, FAO and WHO that the claim arises from gross negligence or wilful misconduct of such staff.

PART III - OPERATIONAL RESPONSIBILITIES OF THE HOST GOVERNMENT

A. Staff

The Host Government will:

8. Appoint a Liaison Officer who will be responsible for the coordination of local facilities and arrangements for the Session.
9. Make available local typists, photocopier machines and related assistance and services required for the conduct of the Session.
10. Make available, in coordination with the Government of the [*name of hosting country*], qualified interpreters for the simultaneous interpretation into [*languages of the meeting*] and qualified translators for the translation of the draft report (for adoption at the end of the Session) and final reports of the Session (to report to the Commission) from [*languages*].

B. Facilities and Equipment

The Host Government will provide for:

11. One conference room, with seating and table space for [*approximate number*] persons and fully equipped for simultaneous interpretation according to the attached standards; [*number*] offices for the Secretariat adequately furnished and space for duplication and collation of documents.
12. Sufficient amount of personal computers with international keyboard, equipped with Word 2000 or later, Adobe Acrobat, Web browser and e-mail, and connected to printers, photocopying machines, duplicating facilities and other equipment as required.

C. Supplies and Services

The Host Government will provide:

13. Office supplies, stationery and paper as required, badges, country flags and name plates.
14. Facilities for local reproduction of in-session documents, including draft reports, needed for the Session.
15. Telephone, telefax and postal services within the co-hosting country, as well as Internet connection, for use by the Secretariat, free of charge, in connection with the work of the Session.
16. First-aid facilities for delegates, observers and staff.

D. Transport

The Host Government will:

17. Provide transport within the co-hosting country for delegates, observers and staff as required for the conduct of the Session, and especially transport from hotel to meeting site, depending upon local circumstances.