



JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON GENERAL PRINCIPLES

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DISCUSSION PAPER ON WORK CARRIED OUT BY COMMITTEES WORKING BY CORRESPONDENCE ONLY

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I- Background

In recent years, several Codex Committees which were adjourned *sine die* have been reactivated and are working by correspondence only.

The reactivation of these Committees and the accompanying proposals for new work have been reviewed by the CCEXEC and approved by the CAC. There are four Committees concerned and five pieces of work:

- The Committee on Sugars (CCS) was reactivated at CAC 34 (2011) to conduct work on a proposed draft standard for non-centrifugated dehydrated sugar cane juice.
- The Committee on Milk and Milk Products (CCMMP) was reactivated at CAC 37 (2014) to conduct work on two different proposed standards, namely: processed cheese and dairy whey permeate powder.
- The Committee on Cereals, Pulses and Legumes (CCCPL) was reactivated at CAC 38 (2015) to conduct work on a proposed standard for quinoa.
- The Committee on Fish and Fishery Products (CCFFP) has come to the end of its work except for one file dealing with histamine, which, subject to approval by the CAC, will conduct this work by correspondence only.

II- Introduction

The Procedural Manual¹ in its *Procedures for the Elaboration of Codex Standards and Related Texts* defines the principles of the functioning of Codex Committees and other subsidiary bodies. The procedures described apply to proceedings of Committees whereby regular physical meetings are held and the results of their work are referred to the CCEXEC and CAC. Several paragraphs stress the importance attached to the work done at committee level.

Indeed, Part 2. Critical Review, Point 7, of the *Procedures for the Elaboration of Codex Standards and Related Texts* reads:

“The critical review process shall ensure that [...] draft standards submitted to the Commission for adoption have been fully considered at Committee level.”

And Part 3 on the uniform procedure for the elaboration of Codex standards and related texts reads:

“Step 7 - The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.”

In principle, the same applies for physical working groups. The Guidelines on Physical Working Groups in Section III of the Procedural Manual, state:

“The proposals/recommendations of a working group shall be presented to the Committee for consideration. They shall not be binding on the Committee”, and,

“The working group shall report, through its Chairperson, on the progress of its work at the next session of the Committee, which has established the working group”.

¹ All references to the Procedural Manual refer to the 24th edition.

Those guidelines also emphasize the need to ensure as far as possible, that participation in the working groups, whether physical or electronic, is sufficiently representative of the CAC's members:

“When establishing an electronic working group, a Codex Committee should ensure, as far as possible, that the membership is representative of the membership of the Commission” (PM p.106 and 109)

III- Summary

The working practices of committees working by correspondence only are very similar to the functioning of working groups as described in section III of the Procedural Manual.

Nevertheless, even from this perspective, the Procedural Manual does not give any indication of the way in which the proposals/recommendations of a working group can be considered other than in a physical meeting of the relevant Committee. Indeed, the Procedural Manual provides for a discussion to take place at a Committee meeting as an indispensable part of the procedure of the elaboration of standards. This is underlined by the last sentence of the paragraph on “Duties and Terms of Reference” of the above-mentioned Guidelines, which reads:

“No decision on behalf of the Committee, nor vote, either on point of substance or of procedure, shall take place in working groups.”

In the case of Committees formerly adjourned, that have been reactivated and are working by correspondence only, the Procedural Manual does not provide any guidance as to how the work should be conducted. Equally, the Procedural Manual is silent on how such a draft standard should progress in the step procedure.

IV- Present Situation

The Procedural Manual explicitly provides the procedures to be followed in the interaction of working groups, Committees, CCEXEC and the CAC which include the discussion of the results of a working group in a physical meeting of the Committee. Yet, it does not provide guidance when the 'normal' way of working is not followed.

In addition, this raises questions of inter alia representativeness of participants, consensus and about the role of the chair that should be addressed.

Thus, this raises both procedural and general questions.

According to the Terms of Reference of the Committee on General Principles, it is the responsibility of the CCGP *“to deal with procedural and general matters [...] including:*

- *the review or endorsement of procedural provisions/texts forwarded by other subsidiary bodies for inclusion in the Procedural Manual of the Codex Alimentarius Commission; and*
- *the consideration and recommendation of other amendments to the Procedural Manual.”*

The aim of this paper is to draw the attention of Codex members to this matter and to suggest that CCGP discusses an appropriate way forward. This is particularly necessary given that this way of working looks likely to increase in the future.

V- Recommendations

It is recommended that CCGP:

- Recognizes that the issue needs to be addressed,
- Agrees on the need for guidance for Codex Committees working by correspondence only.