



JOINT FAO/WHO FOOD STANDARDS PROGRAMME
EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION
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COMMITTEES WORKING BY CORRESPONDENCE

BACKGROUND

1. Several commodity committees have recently been reactivated to work by correspondence. While a notable advantage of working by correspondence is the opportunity to update standards in a timely manner, this modality of working raised a number of issues in terms of procedure and of management. Members highlighted the need for further clear guidance.
2. This matter was discussed in CCGP30 and CCEXEC72.
3. After reviewing the working document, CCEXEC72 agreed to establish a sub-committee of CCEXEC, chaired by Vice-Chairperson Ms Yayoi Tsujiyama, with the following terms of reference (ToRs):

Taking into account documents CX/EXEC 16/72/3 and the *Discussion Paper on Work carried out by Committees working by correspondence* prepared by France and Germany (CX/GP 16/30 CRD2) in completing this task, the subcommittee shall:

- A. Identify the options available to the Commission when deciding on new work under the following scenarios:
 1. The proposed new work falls within the ToR of an adjourned committee (or a committee considering adjournment);
 2. The proposed new work does not fall within the ToRs of an existing committee.
 - B. Identify possible procedural gaps and/or guidance needed.
4. The present report has been prepared to respond to the two requests above.

DISCUSSION

5. The Sub-Committee was convened via the online platform, with the participation of all six Regional Coordinators, seven Members elected on a geographical basis, and the Chair and Vice-Chairs of the Commission. In response to the two questions mentioned in paragraph 3, above comments were received from eight Members (Australia, Canada, Malaysia, Mexico, Netherlands, New Zealand, Norway and Uruguay).
6. Based on the replies, four options, and gaps relating to each, were identified, presented in Appendix I.
 - a. The Subcommittee shared views on the following points:

General

7. There was general agreement that working electronically/by correspondence can be efficient and that committees working by correspondence would benefit from using a uniform procedure.
8. Commenters noted the importance of the CCEXEC critical review function in evaluating work proposals pursuant to the Procedural Manual, taking into account the following: overall work priorities, the complexity of the issue(s) in question, the likelihood of successfully completing the proposed work via correspondence, and the degree of interest among Codex members.
9. It was suggested that the CCEXEC critical review also consider whether the ToRs of an active committee could accommodate the proposed work (e.g. assigning remaining work on histamine in fish to the Committee on Food Hygiene when the Committee on Fish and Fishery Products decided to stop meeting).

10. It was also suggested that work could be conducted by correspondence up to Step 5, 5/8 or 8 in the Step process, then moved through the remaining steps by a committee that conducts physical meetings.
11. It was further noted that the sub-committee did not need to discuss proposals for dealing with new work that came under the area of competence of a committee holding physical sessions, as work would then be conducted according to the rules for electronic working groups in the Procedural Manual.
12. The establishment of electronic or physical working groups (EWGs or PWGs) by committees working by correspondence should be consistent.
13. Members should continue to explore best practices used by other fora (e.g. OIE, IPPC) for non-physical meetings and any other viable options.

Decision-tree approach

14. It was suggested to adopt a decision-tree approach¹ for use by CCEXEC when evaluating new work proposals falling (1) within the scope of an adjourned committee or (2) outside the scope of existing committees. The Sub-committee further supported the inclusion of the proposed *Best Practice for Standard-development by Correspondence* (BPC) in the decision tree. The proposed decision tree is presented as Appendix II.

Decision-making on the mode of work

15. When a proposal for new work is adopted, action must be taken to assign that new work, either:
 - a. to an active Codex body holding physical meetings (committee, task force (TF) or regional coordinating committee (RCC));
 - b. to CAC/EXEC;
 - c. by reactivating an adjourned committee (1) to work by correspondence or (2) to work by holding physical meetings;
 - d. by establishing a new TF or committee (1) to work by correspondence or (2) to work by holding physical meetings;
 - e. by establishing a super committee (new concept).
16. Only options (c)(1), (d)(1) and (e) would require the formulation of further guidance in the Procedural Manual with regard to working by correspondence, while option (a) may require some clarification/discussion should it entail amending the ToRs of an existing committee.
17. The Sub-committee considered further that:
 - CAC, upon deciding to reactivate an adjourned committee or establish a new task force, should also decide the mode of work (correspondence or physical meeting) since any change in mode may have cost implications for the host country.
 - The preferable mode of work would depend on the level of complexity of the work which however may not be evident at the outset: e.g. work started working by correspondence but over time prove more complex or controversial than originally foreseen, requiring physical meetings to provide a platform more amenable to consensus-building.

Time frame

18. The Sub-committee noted the importance of including time-limiting factors. Good time management is key for completing work, and the deadline for submitting comments should be clearly communicated to Members.

Obligations and workload of chairpersons

19. To ensure transparency, it should be recommended that the chairperson of a committee working by correspondence respond to all submitted comments to facilitate consensus and clarity on the discussion. All questions raised during the active period are expected to be addressed in accordance with *Guidelines to Chairpersons of Codex Committees and Ad Hoc Intergovernmental Task Forces*.
20. However, the Subcommittee also noted the heavy workload that addressing all submitted comments may imply for the chairperson.

¹ A decision tree is a decision support tool that uses a tree-like graph or model of decisions and their possible consequences.

Transparency and inclusiveness

21. A transparent and easy-to-use tool for the submission and sharing among participants of comments from Members and observers should be established. The Codex Online Commenting System (OCS) could serve as a useful platform for this purpose; should OCS be used for this purpose,
22. Adaptations may be necessary since it is at present intended to collect comments on Codex circular letters, and chairpersons should be provided adequate training on its use.
23. Working by correspondence may facilitate the participation of Members unable to attend physical meetings, thereby enhancing inclusiveness.

Consensus and advancement of standards in the step procedure

24. The Subcommittee emphasized the need for a clear procedure or mechanism for building consensus in committees working by correspondence, noting the following:
 - It is important that committees working by correspondence ensure that recommendations relating to the advancement of standards in the step procedure be based on clear and unambiguous feedback from Members.
 - Where a committee working by correspondence is unable to reach consensus on a specific issue or with respect to advancing a standard, such facts should be reflected clearly in the report and the matter referred to the appropriate decision-making body as specified above, (a) to (e), such as the Commission, for consideration and possible resolution.
25. It was suggested that physical meetings be held if necessary, in conjunction with other (physical) Committee meetings, before any proposed draft standard be forwarded to the Executive Committee for critical review for adoption at Step 5 to ensure the inclusiveness and transparency of consensus-building and decision-making.

Quorum

26. The *Guidelines to host governments of Codex Committees and ad hoc Intergovernmental Task Forces* (Procedural Manual, 25th ed., p. 100) specify that participants are expected to reply to the invitation letter transmitted by the Codex Secretariat.
27. Pursuant to this provision, the online registration system could be serve as a means of confirming quorum for a meeting.
28. To guarantee quorum for meetings, there may be a need for a mechanism to generate a firmer commitment from Members that they shall participate actively in a committee working by correspondence.

Lack of opportunity to comment on new work proposals

29. Concerns were expressed regarding the lack of opportunity to comment on proposals for new work and project documents in committees working by correspondence.
30. One Member analysed the processes of three committees working by correspondence and raised the following concerns:
31. The Criteria for the Establishment of Subsidiary Bodies of the Codex Alimentarius Commission (Procedural Manual, 25th ed., p. 42) state that a proposal for the elaboration of new standard not covered by the ToRs of an existing committee, or for the revision of an existing standard elaborated by a subsidiary body adjourned sine die, should be submitted to the Commission.
32. In case Members wish to comment on a new proposal, including a project document, before its submission to the Commission at the Committee level, even though the relevant Committee has not yet been established or is adjourned sine die, this provision in the PM need to be revised.

Working languages

33. Committees working via physical meeting use multiple working languages, as do some electronic working groups.
34. It was requested that the Codex Secretariat provide translations of at least those documents developed by the Chair, and of comments into at least one language, with consideration given to English.

Leveraging the function of critical review

35. The CCEXEC should collectively think in new and creative ways when considering which active committee may be the best fit for a specific project.

CONCLUSION

36. The Sub-committee agreed that there was a need for a uniform procedure for the development of Codex standards by committees working by correspondence.
37. The Sub-committee succeeded in identifying the options available to the Commission when deciding on new work and the gaps and/or guidance needed for each option along with the advantages and disadvantages. These are summarized in Appendix I.

RECOMMENDATION

38. CCEXEC is invited to note the four options available to the Commission when deciding on new work and the gaps and/or guidance needed for each option, as contained in Appendix I.
39. CCEXEC is invited to consider practical and workable options, further discuss the decision tree in Appendix II, address gaps and provide proposed actions/amendments to the Procedural Manual.

Appendix I

**OPTIONS AVAILABLE TO THE COMMISSION WHEN DECIDING ON NEW WORK
AND POSSIBLE PROCEDURAL GAPS AND/OR GUIDANCE NEEDED**

When considering a proposal for new work, the Commission must decide which body should take the lead on that new work. Options are:

- (a) Proceeding under an active Codex body holding physical meetings (committee, task force (TF) or regional coordinating committee (RCC));
- (b) Proceeding under CAC/CCEXEC;
- (c) Reactivating an adjourned committee (1) to work by correspondence or (2) to work by holding physical meetings;
- (d) Establishing a new TF or committee (1) to work by correspondence or (2) to work by holding physical meetings;
- (e) Establishing a super committee (new concept).

The Procedural Manual establishes procedures for options (a), (b), (c)(2) and (d)(2). For option (a), a possibility would be to amend the applicable body's ToRs to take up new work assigned by CAC/EXEC.

Procedural guidance is required: for decisions to conduct new work by correspondence under option (c)(1) and (d)(1); and for option (e), which does not exist yet. A combination of options (c)(1) and (e) could be envisaged when work initially undertaken by correspondence becomes too complicated or controversial to be finalized without a physical meeting.

In case the proposed new work falls within the ToRs of an active committee working only by correspondence or a committee adjourned *sine die*, and its workload does not justify holding physical plenary meetings, the options in the table below may be considered.

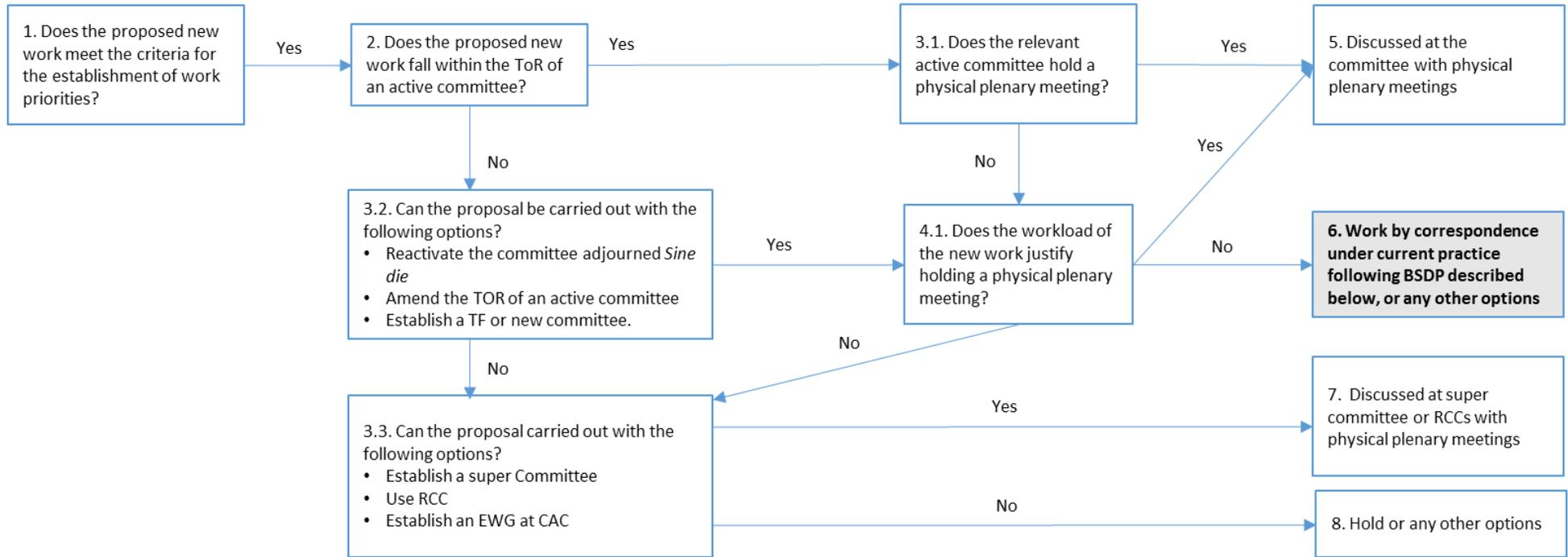
	Proposed Option	Advantages	Disadvantages	Possible procedural gaps and/or guidance needed
(c)(1) (d)(1)	Reactivation of a relevant committee adjourned <i>sine die</i> . <ul style="list-style-type: none"> • Work can be carried out either by CL or in an eWG, following the <i>Guidelines to Chairpersons of Codex Committees and ad hoc Intergovernmental Task Forces</i>. • The Chair of the Committee working by correspondence to consider advancing steps. 	Minimal or no changes to PM Efficiency gains: Time and financial and human resources can be saved by working by correspondence when issues at stake are not controversial	<ul style="list-style-type: none"> - No change from the current situation - Heavy workload for the Chair 	Development of the proposed Best Practice for Standard-development by Correspondence (including criteria for decision about a need for a physical plenary)

	Proposed Option	Advantages	Disadvantages	Possible procedural gaps and/or guidance needed
	<ul style="list-style-type: none"> In doing so, a Best Practice for Standard-development by Correspondence (BPC) should be followed (see Appendix II) 			
(b)	<p>Establishment by the Commission of an eWG to conduct the new work, reporting directly to the Commission.</p> <p>The Commission/CCEXEC will discuss the proposal in the report and consider and decide on the advancement in the Step process.</p>	<ul style="list-style-type: none"> Physical meetings (i.e. the Commission) would address consensus-building issues. Reduced workload for the Chair of Committee working by correspondence 	<ul style="list-style-type: none"> Work in addition to the heavy agenda for the Commission. Member countries typically do not send technical experts to the Commission, precluding in-depth exploration of issues. Potential challenges for technical personnel attending the Commission (time, resources). 	<ul style="list-style-type: none"> Important to ensure that CCEXEC fully carries out its critical review function, and ensures that only fully ready proposals come to the Commission
(a)	Assignment of the new work to a FAO/WHO Regional Coordinating Committee.	<ul style="list-style-type: none"> Physical meetings to address consensus-building issues. Allows for regional discussion to resolve contentious issues by region 	<ul style="list-style-type: none"> Meetings are held every two years. Technical experts may not travel to this meeting. Mechanism required to collate and analyse input on international standards from different regions. Potentially lengthy process if regional views differ, as there is no specified mechanism for discussion and building consensus. 	May require changes in ToRs or involve rules/procedures of FAO and WHO
(e)	<p>Establishment of a “super committee”, which could meet in Rome/Geneva one week before the CCEXEC meeting or in conjunction with a meeting of another committee.</p> <p>The super committee would cover any discrete work assigned to adjourned committees.</p> <p>The super committee could be led by Chair(s) appointed by countries designated as responsible for the adjourned committees.</p>	<ul style="list-style-type: none"> Physical meeting would address the issue of difficulties building consensus electronically and may prove more efficient. Could meet annually at any time during the year. 	<ul style="list-style-type: none"> Increased workload for the Codex Secretariat in managing the logistics for an additional meeting. Travel required for the physical meeting (alleviated somewhat if held on the margins of an existing meeting) Potential additional travel cost when additional technical experts are needed for discussions. 	Creation of ToRs of the “super committee”

	Proposed Option	Advantages	Disadvantages	Possible procedural gaps and/or guidance needed
		- Cost of hosting a physical meeting expected to be nominal if in conjunction with CCEXEC.	- Absence of CCEXEC members from their offices for three weeks could be problematic,	

Appendix II

Proposed Decision Tree



Best Practice for Standard-development by Correspondence

