

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Item 5

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REVISIONS/AMENDMENTS TO CODEX TEXTS

(Prepared by the Codex Secretariat)

1. BACKGROUND AND INTRODUCTION

1.1 In 2007, the 24th Session of the Codex Committee on General Principles (CCGP24) agreed to include the *Guide to the Procedure for the Amendment and Revision of Codex Standards and Related Texts* (“the Guide”) in the Procedural Manual (PM) based on text derived from two former texts, namely (i) *Guide to the Procedure for the Revision and Amendment of Codex Standards* and (ii) *Arrangements for the Amendment of Codex Standards Elaborated by Codex Committees which have Adjourned sine die*¹.

1.2 At CCGP31, the Codex Secretariat submitted a Conference Room Document (CRD) on possible future procedural work for CCGP² highlighting some of the issues observed over time in relation to amendments and revisions of Codex texts. The current document is based on this CRD. It describes how revisions and amendments to existing Codex texts are currently implemented procedurally (section 2), opportunities for improvement (section 3) and conclusions (section 4).

1.3 The question on when and how often to review Codex texts was discussed at the 78th Session of the Executive Committee of the Codex Alimentarius Commission (CCEXEC78)³. The approaches applied for review of standards by active subsidiary bodies were considered to be working adequately, however, CCEXEC78 “requested the Secretariat to increase awareness and visibility of the procedures for revision of standards that were developed by Committees that have since been adjourned and provide additional guidance to facilitate application (see section 2.2.2)”.

2. RELEVANT PROVISIONS IN THE PROCEDURAL MANUAL

2.1 Revisions and amendments mentioned in the Elaboration procedure

2.1.1 According to the PM, *Procedures for the Elaboration of Codex Standards and Related Texts*, paragraph 8, revisions to Codex standards need to follow the same process as the elaboration of new standards with the exception of editorial amendments or amendments that are of a substantive nature but consequential to provisions in similar, adopted Codex standards.

2.1.2 Paragraph 4 of Part 2, Critical Review, of the *Procedures for the Elaboration of Codex Standards and Related Texts* further specifies that revisions of numerical values in Codex standards shall follow the procedures established by the Committees concerned and endorsed by the Codex Alimentarius Commission (CAC). This concerns the Codex Committee on Pesticides Residues (CCPR), Codex Committee on Food Additives (CCFA), Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) and the Codex Committee on Contaminants in Foods (CCCF) and is not further elaborated on here with the exception of the proposed version number and the version history.

2.2 The Guide

2.2.1 Procedure for texts developed by subsidiary bodies that are active

2.2.1.1 The Guide distinguishes between and defines “amendment” and “revision”, noting that an amendment means any addition, change or deletion of text or numerical values, and can be editorial or substantive, and affects a limited number of articles in a Codex text.

¹ ALINORM 07/30/33, para 142 and Appendix XI

² GP/31 CRD/10

³ REP20/EXEC1, paras 54-57

2.2.1.2 The Guide mentions as editorial amendments the following non-exhaustive list:

- correction of an error;
- insertion of an explanatory footnote;
- updating of references consequential to the adoption, amendment or revision of Codex standards and other texts of general applicability, including the provisions in the PM; and
- finalization or updating of methods of analysis and sampling as well as alignment of provisions, for consistency, to those in similar standards or related texts adopted by CAC.

2.2.1.3 The Guide defines revision as any change that does not fall under “amendment” and notes that CAC decides ultimately whether a change is considered an amendment or a revision, and whether an amendment is of editorial or substantive nature.

2.2.1.4 Editorial amendments do not need a project document and may be adopted by CAC at step 8. These are usually included in a specific Codex Secretariat document to CAC. Other editorial amendments, if agreed by a subsidiary body, may be adopted directly at step 5.

2.2.1.5 Proposals for revision or amendments of substantive nature should be accompanied by a project document, unless CCEXEC or CAC decides otherwise. They will be subject to the critical review by CCEXEC, followed by possible approval by CAC as new work, and referred for consideration to the appropriate subsidiary body.

2.2.2 Procedure for texts developed by adjourned/abolished or dissolved subsidiary bodies

2.2.2.1 Where Codex subsidiary bodies have been abolished, dissolved or adjourned *sine die*, the Secretariat keeps under review all Codex standards and related texts elaborated by these bodies and determines the need for any amendments, in particular those arising from decisions of the Commission. The procedural manual contains a written procedure for this in order to consult members before bringing such amendments to the CCEXEC and CAC.

2.2.2.2 Editorial amendments are prepared by the Codex Secretariat for adoption by the Commission.

2.2.2.3 If the need for substantive amendments is identified by Codex Secretariat (if appropriate together with host secretariat), the secretariat prepares a circular letter (the PM calls it “working paper”) containing reasons for and wording of the proposed amendment and ask the Codex membership: (a) on the need for the amendment, and (b) on the amendment itself with the following possible results:

- The majority of the replies received from the membership is affirmative on both the need and the proposed wording or an alternative wording and the proposal is submitted to the Commission for adoption.
- Replies do not offer a non-controversial solution and the Commission is informed and will determine how best to proceed.

3. OPPORTUNITIES FOR IMPROVEMENT

3.1 Definition of Amendments/Revision

3.1.1 The distinction between Revisions and Amendments has the goal to create fast-tracks for “editorial” amendments and “simple” substantive amendments while making a “larger” revision of a standard similar to developing a new standard (e.g. Follow-up formula). The procedure is overall difficult to read, to interpret and to apply and insecurity exists as to when to call changes revisions or amendments and nothing about the nature of changes is documented in the text (except in the relevant committee and CAC reports).

3.1.2 For editorial amendments (Type (i)) no change is proposed. It is noted, however, that “correction of errors”, which is mentioned in the Guide as “editorial” may well be substantive and should rather be noted separately under corrections.

3.1.3 The Guide attempts to describe what is a substantive amendment (type (ii)) affecting a “limited” number of articles in a Codex text. However, the meaning of “limited” is not further explained in the Guide so it is not clear how many amendments would constitute a revision.

3.1.4 Revision is defined as a change that does not classify as an amendment and the PM leaves it up to CAC to determine whether a proposal is an amendment or revision, editorial or substantive.

3.1.5 It seems correct to leave the final decision on the status of a proposal to the Commission. However, it can be questioned whether it is useful to make reference to “limited” articles. The point should rather be whether a substantive amendment can be clearly written down in a concise proposal and does not need to be further developed (this would be called “substantive amendment”) or whether a development process (step procedure) is needed (this would be called “revision”). Furthermore, mixing editorial and substantive changes in the category “amendment” is detrimental to transparency.

3.2 Project document and adoption

3.2.1 In accordance with the guide, editorial amendments (type (i)) do not require the preparation of a project document. The text can be adopted by the Commission at step 8. Proposals for revisions need to be accompanied by a project document and then go through the step procedure. Both provisions seem appropriate.

3.2.2 In accordance with the present rules, substantive amendments (type (ii)) should be accompanied by a project document, unless CCEXEC or CAC decide otherwise. This seems illogical because a proposal needs to be first reviewed before CCEXEC or CAC could decide this. It would seem more logical that a proposal for amendment is made without a project document. If CCEXEC in their critical review recommends so and the Commission agrees that it is an amendment, then it should be possible to adopt it directly at step 8 without a project document.

3.2.3 In case of doubt about the nature of the proposal or its impact on the overall text, the Commission could also adopt it at step 5 to allow for more discussion or request a project document to be prepared. In the latter case the change would be considered a revision.

3.3 Possible workflows

3.3.1 Editorial amendment/correction

- Proposal is made by a subsidiary body, the Codex Secretariat or a Member.
- CCEXEC reviews.
- CAC can adopt at step 8.

3.3.2 Substantive amendment/correction

- Proposal is made by a subsidiary body, the Codex Secretariat or a Member.
- CCEXEC reviews.
- CAC can adopt at step 8; or
- CAC can adopt at step 5; or
- CAC can request the relevant party to prepare a project document and submit again as revision.

3.3.3 Revision

- Project document is submitted by a subsidiary body or a Member.
- CCEXEC reviews.
- CAC adopts as new work
- Step procedure.

3.4 Proposals for a version number and a version history

3.4.1 Each Codex text could be assigned a version number consisting of four digits. The first figure tracks revisions, the second substantive amendments, the third editorial amendments and the fourth corrections. All language versions would have the same three leading version numbers but could differ in the fourth depending on language corrections.

- A newly adopted standard would have the version number 1.0.0.0.
- A standard with one substantive amendment, one editorial amendment and one correction would have the version number 1.1.1.1.
- A standard with one revision and one editorial amendment would have the version number 2.0.1.0.

3.4.2 Each Codex text could include a version history indicating what changed from the previous version or amendment or what was corrected. From the history it should be clear how extensive a change was and why it was made.

3.5 Written procedure for adjourned, abolished or dissolved subsidiary bodies

The written procedure has not been used to the knowledge of the Secretariat. If a relevant case arises, it should be tested and then reviewed. Experience from the application of the procedure for inclusion of additional species in the standards for fish and fishery products show that while the procedure is clear when the Codex Committee on Fish and Fishery Products (CCFFP) is active, there were some procedural insecurities on how to correctly apply the procedure when the CCFFP was not active and a similar procedure to the existing written procedure was used.

4. CONCLUSIONS

4.1 Distinguishing revisions, editorial and substantive amendments and corrections

The CCGP is invited to discuss interest in clarifying the different changes to Codex standards, creating a version number tracking the changes and including a version history in the standards and if the proposed workflows are agreeable. Following the discussion, the Secretariat would prepare a comprehensive document indicating the minor amendments needed to the Guide and prepare examples on what a version history could look like.

4.2 Written procedure in case the relevant subsidiary body is adjourned, abolished or dissolved

More experience should be gained with the application of the procedure contained in the PM taking into account also other related parts of the PM such as the Procedure for the inclusion of additional species in Codex standards for fish and fishery products. The CCGP is invited to discuss interest in further work on this issue at a later stage.