



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

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DISCUSSION PAPER ON MONITORING THE USE OF CODEX STANDARDS

(Drafted by France)

1. Scope and purpose of Codex standards: background

1.1 At its 31st Session, CCGP noted that the Delegation of France, supported by other interested delegations, would prepare a discussion paper for CCGP32 on monitoring the use of Codex standards, taking into account the comments made at CCGP31 and possible contributions from other delegations.

1.2 The primary task of the Codex Alimentarius Commission (Codex) is to develop international food standards, guidelines and codes of practice to protect the health of consumers and ensure fair practices in the food trade.

1.3 Codex standards are applied on a voluntary basis. They are recognised by the World Trade Organization (WTO) and other international organisations that address food issues. Codex standards may be seen as benchmarks in countries looking to introduce public health policies and regulations. The codes of practice and guidelines offer resources for professionals or relevant supervisory authorities in given business sectors (i.e. fishery products, cacao products, etc.). As there is no overall approach to the implementation issues surrounding Codex standards, it is difficult to estimate the extent to which they benefit the various stakeholders.

2. Discussion points originating from other international organisations

2.1 Some international organisations have, since their inception, been using instruments to assess implementation of the standards or resolutions that they adopt in the field. The International Labour Organization (ILO) establishes international labour standards on the basis of reports produced by its Office. A system for ratifying ILO conventions allows Member States, on a voluntary basis, to bestow international scope on their domestic legislation in respect of given issues. When a Member State ratifies a convention or standard, actual application is supervised by special ILO bodies. If necessary, complaints may be filed. Should ILO note a violation, it starts discussions with the offending country to find a solution. In addition, when a Member State fails to ratify a convention or standard, it is bound to present an annual review of its domestic legislation on the issue and the planned changes.

2.2 Over time, other organisations have rolled out a data collection strategy regarding application of their standards after adoption. Examples include the World Organisation for Animal Health (OIE) and the International Organization for Standardization (ISO) whose work resembles that of the Codex. The International Plant Protection Convention (IPPC) also contains a mechanism for monitoring use of its standards. The Framework for Standards and Implementation, which was adopted in 2012, is based on a scorecard detailing the transcription of IPPC standards into practical recommendations and field manuals, and surveys carried out to assess the extent of use by members.

2.3 This work plays a part in current efforts to optimise collective global action. For instance, the Organisation for Economic Co-operation and Development (OECD) is currently developing a set of activities concerning best practice principles for regulatory policy at international level. In a 2016 report¹ which examined inputs

¹ OECD (2016), International Regulatory Co-operation: The Role of International Organisations in Fostering Better Rules of Globalisation, OECD Publishing, Paris, <https://doi.org/10.1787/9789264244047-en>.

from over 50 international organisations, OECD noted poor knowledge of the conditions and level of use of international standards.

2.4 Broadly speaking, organisations leverage information relating to use of their standards to:

- Know whether the standards are useful for the authorities of Member States or other stakeholders
- Understand the challenges raised for uptake of their standards by Member States or other stakeholders
- Find relevant solutions when problems arise owing to failure to apply standards by fostering interaction with the member(s) in question
- Identify and, if necessary, revoke or revise unused standards
- Roll out or develop resources for expanding capabilities which are tailored to countries' requirements
- Improve their standard-setting process
- Support the drafting of their strategic guidance documents

3. Activities undertaken as part of Codex

3.1 Until 2005, there was a Codex Acceptance Procedure in the Procedural Manual. The aim was to encourage each Member Country and Member Organisation to declare, for each Codex standard, the extent to which it would apply in its country and to provide, where applicable, a provisional timetable.

3.2 There were four options for the Codex Acceptance Procedure: full acceptance, acceptance with specific deviation, declaration of free distribution and non-application. In the latter case, governments had to also mention the reasons and state whether and when they intended to apply the provisions contained in the Codex standards. The procedure was finally abolished at the 28th Session of the Codex Alimentarius Commission in 2005, essentially due to the fact that Codex Members did not apply it in practice.

3.3 As part of the Regular Review of Codex Work Management, in 2018, the Codex Secretariat looked at collaboration with other international standard-setting organisations.² The review was based on a survey of 18 organisations having Codex observer status that are involved in standard-setting. It found that:

- A number of organisations had introduced effective mechanisms for periodic review of standards. In some cases, the system included information on use of the standards.
- The organisations consider that new information technologies represent a chance to bolster knowledge at international level
- Overall, problems with monitoring and managing standards were mentioned

3.4 One of the document's conclusions was that the standard-setting organisations that were polled are generally confronted, in the same way as Codex, with the issue of managing standards following their adoption. It was recommended to consider the options for setting up a structure for following up on Codex standards and for enabling the Codex Secretariat to monitor OECD's work on best practice principles for regulatory policy.

3.5 The Regional Coordinating Committees (RCCs) were tasked with promoting use of the standards at regional level as part of their revitalisation as from 2014. Information was initially gathered through circular letters sent to all Members in a region. As the response rates were poor, in 2016, it was decided to use an online questionnaire instead.

3.6 The relevance of introducing a systematic approach to using Codex standards was again raised during the examination of a discussion paper on emerging and future issues of relevance to CCGP at this committee's 31st Session. Concerning this question, CCGP felt that it would be beneficial to have a better overview of application of Codex standards whilst underscoring the following points:

3.6.1 There are several ways of "using" Codex standards: some standards such as Maximum Residue Limits (MRLs) for pesticides or veterinary drugs are presented in such a way as to allow the competent authorities to decide whether or not it is opportune to include them "as is" in domestic regulations. Other complex texts such as codes of practice are not intended to be introduced into national legislation as such but may be useful for structuring agri-food sectors or for training programs. In other cases, certain sections of a standard or scientific assessment phase conducted upstream may be factored in by the competent authorities without the latter electing to apply the entire text or its

² CX/CAC 18/41/13.

provisions. This means that we should therefore define “use” as part of the activities surrounding this issue. This point could make it more complicated to monitor use of the standards.

3.6.2 Codex standards are primarily intended to facilitate international trade but they can also be used to help draft domestic regulations. This means that national production should also be considered as one of the relevant sources. As a result, information gathering may be resource intensive.

3.6.3 Information gathering must be based on trust from all Codex members. Under no circumstances should information collected in this way be used in respect of specific trade issues. Conversely, as Codex standards are not mandatory, feedback could help Codex understand how standards are implemented and how countries can best be assisted.

3.6.4 Codex should endeavour to learn from the ongoing work of other international standard setting bodies in this area, especially OIE. OIE and other international standard-setters have stated that they are available to cooperate with *Codex Alimentarius* and its Members if the latter decide to bolster knowledge of how Codex standards are used.³

3.7 At the end of this discussion, CCGP members, acknowledging the growing interest in having better knowledge of use of the standards, entrusted France with preparing a discussion paper for CCGP32.

3.8 In tandem, this question was comprehensively addressed as part of drawing up the Codex Strategic Plan 2020-2025,⁴ which was adopted in July 2019. New Goal 3 (“Increase impact through the recognition and use of Codex standards”) aims to promote the relevance of Codex standards and their use by public authorities and other stakeholders. In particular, operational Objective 3.3, “Recognise and promote the use and impact of Codex standards” commits Codex to take the following initiative: “Having a mechanism/tool to measure the impact of Codex standards developed and piloted”. It is planned to gauge advances in this direction through an annual progress report. When the Strategic Plan was adopted, CAC also agreed that the RCCs should be primarily responsible for the development of the roadmap for its implementation.⁵

4. Discussions conducted as part of the RCCs

4.1 The six Codex regions held meetings between September and December 2019. The agenda for each RCC meeting included an examination of the results of the Codex Secretariat’s survey into use of Codex standards in the region.

4.2 The previous 2016 survey concentrated on MRLs for pesticides, three general subject standards (General Standard for Contaminants and Toxins in Food and Feed, General Standard for the Labelling of Pre-packaged Foods, General Standard for Food Additives) and the General Principles of Food Hygiene. Although response rates varied according to the region, they were higher than with the circular letter system. It was also noted that Members’ level of use was dictated by the nature and purpose of the Codex standard under review: the General Principles of Food Hygiene were applied by the majority of countries in the different regions whereas the general subject standards had often only been partially adopted. For their part, the MRLs for pesticides were applied on a case by case basis as part of domestic legislation.

4.3 The second survey (2019) focused on a new set of standards: MRLs for veterinary drugs in foods, two Codex texts on antimicrobial resistance (Guidelines for Risk Analysis of Foodborne Antimicrobial Resistance and Code of Practice to Minimize and Contain Antimicrobial Resistance) and the Guidelines for the design of control measures for street-vended foods. The survey also enabled the following roadblocks to countries’ adoption of the Codex standards to be pinpointed:

4.3.1 Lack of awareness and limited uptake of Codex standards by agri-food businesses

4.3.2 Duration of national implementation processes

4.3.3 Lack of the financial and human resources required to enact Codex standards in domestic regulations

4.3.4 Some Codex standards are highly general and therefore not always adaptable to specific national contexts

³ Comments from OIE (GP/31 CRD/02), Comments from ISO (GP/31 CRD/03).

⁴ <http://www.fao.org/3/ca5645en/CA5645EN.pdf>

⁵ REP19/CAC, par. 122.

4.3.5 Different methodological approaches at national and Codex levels may limit options for use of a number of Codex standards, in particular as regards quantitative thresholds (for instance, MRLs)

4.4 The RCCs were also asked about the interest noted in the region for the Secretariat's surveys on this topic and about the standards which could be the subject of future surveys. Answers varied according to the region. Overall, the RCCs flagged up interest for the survey conducted to raise awareness of use of the Codex standards. Problems deriving from non-application of the Codex standards were also mentioned on several occasions, with Codex Members considering that such circumstances compromise the standards' reputation as global benchmarks for food safety and the food quality.

4.5 The RCCs underscored the fact that this survey was connected to both Goal 3 of the Codex Strategic Plan 2020-2025 and the discussions highlighted at CCGP31.

4.6 It was nevertheless noted that conducting studies only provides information on the extent of use of the standards at a given time which is therefore very limited. Furthermore, the lack of resources (time, consultations with the various stakeholders) needed to answer the questionnaire was a factor explaining Members' inability to fill it in and the sometimes disappointing response rates. In light of these problems, the RCCs broadly considered that more frequent surveys were not advisable (biennial basis).

4.7 A number of options were mentioned to extend or supplement the regional surveys:

- Consider setting up a mechanism for more structured monitoring of implementation of the standards, by addressing this issue permanently and directly at global level
- Ask the WTO Secretariat to present examples of trade disputes in which Codex standards have been mentioned with an eye to better understanding the circumstances in which it may be difficult for countries to apply the Codex standards
- Members stated that they were especially interested in having additional information on the use of certain codes of practice (for instance for contaminants), commodity standards in general, standards elaborated by committees which have adjourned *sine die* and texts from the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS).

5. Other currently available data and sources

5.1 Some of the work carried out by FAO and WHO in relation to Codex generates other data which can help monitor use of the standards:

5.1.1 The Development Law Service of the FAO Legal Office has developed FAOLEX, a database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management. The database contains information on food safety and fair practices in trading food which are the subject of Codex standards. FAOLEX is constantly being updated, with an average of 8,000 new entries per year. With a core function of advising FAO Members on legal and institutional means to promote and regulate national development and international cooperation in the food and agriculture sector, FAOLEX contains legal and policy documents drawn from more than 200 countries, territories and regional economic integration organizations. To access FAOLEX, click here: <http://www.fao.org/faolex/en/>.

Nevertheless, the references supplied by FAOLEX do not constitute official communications and are only provided for information purposes. Moreover, there is no evidence to suggest that the competent authorities of Codex Members are aware of this platform, that they use it and verify the information presented.

5.1.2 In a number of fields, Codex standards help Member States introduce management procedures and may be based on electronic systems or theme-based platforms. For instance, for biotechnologies, the FAO GM Foods Platform (<http://www.fao.org/food/food-safety-quality/gm-foods-platform/en/>) gathers data from Codex Members under the Codex Guideline for the conduct of food safety assessment of foods derived from recombinant-DNA plants (CAC/GL 45-2003, Annex 3). These platforms contain a wealth of information originating from FAO Member States.

5.2 Other stakeholders also hold information on certain specific issues connected with use of the standards:

5.2.1 Issues subject to notifications of trade concerns to WTO may provide insight into problems with understanding or implementing Codex standards. In 2017, FAO and WTO jointly published an analysis

of connections between Codex's work and the activities of WTO's SPS and TBT Committees (https://www.wto.org/english/res_e/booksp_e/tradefoodfao17_e.pdf).⁶

5.2.2 Together with the United Nations Department for Economic and Social Affairs (UNDESA) and the International Trade Centre (ITC), WTO has developed an IT resource for monitoring SPS and TBT notifications. This electronic platform, which is called ePing (<https://www.epingalert.org/fr>), can be accessed by all stakeholder profiles and is based on sharing information on trade requirements for a category of agricultural and food products and on changes thereto. Data collected by WTO and ePing makes a telling contribution to facilitating international trade but highlight problems related to non-application of the standards and therefore fails to provide an overall vision of global application of Codex standards. Furthermore, the data is produced to foster dispute settlement between WTO Members and not for the general improvement of the system.

5.2.3 The aim of a number of development programmes is to help implement benchmark standards, including Codex standards. This is the case for the Standards and Trade Development Facility (STDF) which is a global partnership involving, inter alia, FAO, WHO, OIE, WTO and the World Bank Group. These programmes testify to the problems with implementation of certain Codex standards by the Members.

5.2.4 At domestic level, a number of Codex Member States record information on the extent of application of Codex Standards. For instance, when appropriate, there may be mechanisms for automatically enacting newly-adopted Codex standards in domestic regulations. Such mechanisms may generate information of relevance for monitoring use of the standards.

6. Analysis

6.1 Codex Members are increasingly interested in how Codex standards are used both from a qualitative (i.e. what are the options for use of the standards) and quantitative (i.e. to what extent are the standards used) standpoint.

6.2 Heightened awareness of use of the standards would enable the most useful standards to be identified, the possible elimination of unused standards to be assessed, the challenges raised by application of Codex standards to be understood and, ultimately, the overall effectiveness of Codex to be improved.

6.3 At present, Codex does not have a structured approach to use of the standards. Information does exist but it is segmented. The surveys conducted by the Codex Secretariat in the context of the RCCs, which represent the only source of information on use of the standards, are unable to be mainstreamed as they are only carried out at regional, and not global, level and they concentrate on very few standards for a limited time period. Nevertheless, Members consider that replying to such surveys on a biennial basis already creates severe constraints due to the lack of human resources in the countries. This means that it is not advisable to step up the frequency of these surveys.

6.4 A number of activities carried out as part of Codex or its parent organisations are based on modern electronic resources: diagnostic tool for the Codex Trust Fund (CTF) and for food control systems (FAO/WHO); online database (FAOLEX), etc. The Codex Secretariat also has cutting-edge skills in the ICT field.

6.5 The Codex Strategic Plan 2020-2025 contains a commitment to develop a mechanism to measure impact of Codex standards. To build a realistic roadmap for achieving this objective, whilst drawing on the preliminary discussions conducted by OIE in accordance with the recommendations of CCGP31, the rollout of comparable methodology is suggested. The following proposals for recommendations are made as part of such an approach in successive steps. They are intended to structure CCGP discussions and should not be seen as measures that Codex will have to approve directly.

6.6 Recommendation 1

Agree as to what should be considered as "use" to monitor Codex standards. We could, for instance:

6.6.1 Define the term "use" or

⁶ The analysis flags up a substantial increase in notifications of specific trade concerns (STCs) referring to Codex standards in SPS and TBT fields between 2016 and 2017. It also highlights a more pronounced rise in trade issues connected to certain topics (i.e. food safety, nutrition, etc.).

6.6.2 Pinpoint relevant practices for use

This initial step would involve drawing up a register of conditions in which Codex Members use the standards to establish a list of core elements to take into account as regards use of the standards.

Knowledge gleaned from this step could also be used to identify roadblocks to implementation of the standards and the key factors for success in this area.

6.7 Recommendation 2

Establish a method to list existing data and identify the main gaps.

Drawing on the standards, a systematic approach could involve mapping existing data concerning their use. The idea would be to determine whether or not there is available data for each Codex standard and to list its nature and source, where applicable.

The results could be presented on the following spreadsheet:

Standard	Main user (example: operator, authorities)	(example: supervisory)	Available data (yes/no)	Source (i.e.: FAOLEX, SPS Committee, etc.)

This basic information could be supplemented by qualitative comments from the Codex Secretariat, Codex Members (for instance, concerning a national regulation or specific problems) and any other stakeholder.

It should be said that implementing this recommendation could require considerable work. A progressive approach could include:

6.7.1 grouping comparable standards (i.e.: codes of hygienic practice, MRLs for pesticides, etc.); or

6.7.2 launching a pilot phase for selected standards. In this respect, it could be advisable to factor in standards selected for conducting surveys in the context of the RCCs.

6.8 Recommendation 3

Instances of standards for which little data has been identified could be examined according to the outcomes of the mapping phase described in recommendation 2. In particular, it could be determined whether these gaps can be explained by the fact that the standards are not used, or whether additional data should be actively collected.

6.9 Recommendation 4

Reflect on the resource(s) to be allocated, if appropriate, to implementing the various recommendations which may be supported by the Committee. Due to the problems experienced by Codex Members in responding to the surveys conducted in the context of the RCCs, it would appear inadvisable to send out additional questionnaires. For instance, the following options (non-exclusive between themselves) could be discussed:

6.9.1 Task the Codex Secretariat with carrying out the preliminary definition and/or mapping work. Additional staff may need to be assigned for this purpose.

6.9.2 Set up an electronic working group (EWG) to carry out the preliminary definition and/or mapping work

6.9.3 Commission a specialist structure in one of the parent organisations (i.e.: FAO's Office of Chief Statistician) to carry out the preliminary definition and/or mapping work

6.9.4 Study the opportunities provided by new ICTs to facilitate processing of large volumes of data and to address the challenge of interpreting disparate information. Partnerships with universities or research institutes could be considered.

6.10 *Recommendation 5*

Contemplate bolstering existing synergy with other organisations working in the field and, in particular:

6.10.1 Together with FAO and WHO, explore the possibility for the Codex Secretariat to take part in the OECD-led “partnership for effective international rule-making”, as will be tabled at CCEXEC78⁷

6.10.2 Learn lessons from the mechanisms introduced by other international organisations, especially those of relevance in the health field (OIE, IPPC, ISO)

6.10.3 Look into options for benefiting from OIE’s pilot project for creating an Observatory on Implementation of OIE Standards

6.11 *Recommendation 6*

CCGP could suggest that the conclusions of its examination of this issue be sent to help draft the annual progress report which will have to be presented to Codex Members as part of Objective 3.3 of the Codex Strategic Plan 2020-2025 (“Progress on the development of a mechanism to measure impact of Codex standards”).

⁷ CX/EXEC 19/77/8.