

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - E-mail: codex@fao.org - www.codexalimentarius.org

Agenda Item 2, 4, 5, 6, 7

CRD9

JOINT FAO/WHO FOOD STANDARDS PROGRAMME
CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION
AND CERTIFICATION SYSTEMS
Twenty-fourth Session
Comments of India

Agenda Item 2

MATTERS ARISING FROM OTHER CODEX SUBSIDIARY BODIES

A. 75th Session of the Codex Executive Committee (CCEXEC75)

MATTERS FOR ACTION

In respect of the new work proposal to develop Guidelines for the management of (micro) biological foodborne crises/outbreaks, and recommendation by the CCEXEC75 to reflect on whether similar guidance was needed on food-safety crises/incidents in their respective areas of work; it may be noted that the proposed work intends to address preparedness, detection, response and recovery with the intent of limiting the extent of foodborne outbreaks/crises, includes communication between national programmes with "INFOSAN and the scope is limited to biological hazards.

We believe that aspects related to CCFICS are already covered under existing CCFICS CAC/GL 19-1995 (Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations), which provide guidance for responding to food safety emergencies. However some of the aspects like preparedness, detection are not covered under CAC/GL 19-1995, which are more relevant to the work of CCFH.

Therefore we do not foresee any further work in this area by CCFICS and that CCFICS would not be the relevant Committee for this work.

Agenda Item 4

PROPOSED DRAFT GUIDANCE ON THE USE OF SYSTEMS EQUIVALENCE

General Comments:

- The proposed document is being considered as standalone document therefore for the purpose of better clarity it would be more preferable to have footnotes to reflect the existing CCFICS text.
- Examples in the document help in better understanding of the context and should be retained as the document progress. Moreover, the examples would be helpful in avoiding misinterpretation of the text during use of document by member countries.
- The examples should be within the main body of the text in order to better correlate with the situation where it has been quoted. Further, it is suggested that the document should have disclaimer about the examples that these are illustrative only and does not exclude the other similar situations.
- Out of the two options given by pWG, the option 'A' is preferable which suggest to consider amendments to the existing guidance [CAC/GL 34-1999 and CAC/GL 53-2003] to remove areas where there is duplication and ensure the language across all the guidance is consistent and reflects current usage and understanding. The option 'A' is more logical particularly in terms of conclusions/discussions emerged under paragraph 11 [neither document provide specific, practical guidance on how such evaluations should be made] and paragraph 15(a) [the new guidance does not appear to fit as an annex to either of these existing CCFICS texts that expand on CAC/GL 26-1997].

At several places in the document (paragraph 12, 15, 18, 36) the text is "any equivalence of systems assessment" and it should be corrected to "any assessment of equivalence of systems" in line with objective of the document.

At several places in the document (Bullet 3 of paragraph 14, paragraph 19, 20,21) the text is "equivalence of systems recognition" and it should be corrected to "recognition of equivalence of systems" in line with objective of the document.

Exporting country or importing country should be used in singular form throughout the document to maintain uniformity.

SPECIFIC COMMENTS:

SECTION 2 – SCOPE / PURPOSE

1. Remove the square brackets of Paragraph 8 and the text may be modified as under:

The consideration, assessment and recognition of the equivalence of one country's NFCS in whole or the relevant part is independent of any reciprocal process occurring. Where appropriate **and mutually agreed**, countries may choose to undertake reciprocal consideration of the other country's NFCS in parallel with the original request. Reciprocal considerations may have different scopes and may arrive at different conclusions.

Rationale: For better clarity, because along with appropriateness of the reciprocal requests for system equivalence, the equally important is that both countries are agreeable to the same.

SECTION 3- DEFINITIONS

2. Remove square brackets and modify the first option of definition of NFCS as below:

[National Food Control System: ~~{As defined/~~ described by CAC/GL 82/2013 and noting that import and export inspection and certification **control** systems are **essential** part of a NFCS.]

Rationale: Document CAC/GL 82/2013 has only desired the National Food Control System and not defined it, therefore, it is better to avoid creating a definition from already existing text. Secondly, here the focus is not on inspection and certification system, therefore, we may use the language as given in paragraph 2 of CAC/GL 82/2013.

3. Definition of Equivalence may be deleted

~~**Equivalence:** the capability of different inspection and certification systems to meet the same objectives.~~

Rationale: As we have already agreed that the current document is not focused on inspection and certification system as was the case in CAC/GL 34-1999, the definition may not be relevant.

SECTION 4 – PRINCIPLES

4. Paragraph 9 e may be modified as below

Decision Criteria

~~e d.~~ The decision criteria used for assessing system equivalence should reflect the objectives of the importing country's own NFCS, or the relevant part, and focus on whether the exporting country's NFCS, or relevant part, is ~~{likely to /will}~~ reliably achieve the same objectives.

Rationale: The numbering is editorial error. The word "likely to" more appropriately reflect the situation because decision criteria are being identified in terms of their possibility to achieve the objectives and no one can say with surety unless until it is implemented.

5. Paragraph 9 f may be modified as below

Assessment and decision

~~f e.~~ The processes and decisions relating to the assessment of systems equivalence should focus on objectives; be documented and transparent; evidence-based; efficient; and conducted in a cooperative ~~{and timely}~~ manner **with mutually agreed timelines**; and should not introduce an objective, outcome, standard or process in excess of what is being applied within the importing country without justification.

Rationale: To address the time limits in decision making process.

SECTION 5 – PROCESS STEPS

STEP 5: Assessment

6. **Comment:** The text may be modified as below:

The assessment process **is carried out by the importing country** should be transparent, evidence-based and focus on assessing whether the exporting country's NFCS in whole or the relevant part as described meets the decision criteria.

Rationale: It is important to clarify that the decision process is carried out by the importing country. This is important to keep it consistent with the Figure 1.

5.1 STEP 1: INITIAL DISCUSSIONS AND DECISION TO COMMENCE

7. **Comment:** Paragraph 12 text may be modified as below

These discussions should identify if commencing an **assessment of** equivalence of systems ~~assessment~~ is appropriate and if so identify the scope of the assessment to be undertaken. The discussions are also useful to identify where experience, knowledge and confidence relating to that scope already exists and / or where there are potential gaps.

Rationale: Editorial changes to put the things in correct perspective.

8. **Comment:** The text of paragraph 13 may be modified as below

The initial discussions should reflect on whether an equivalence of systems recognition is the most appropriate approach to reduced impediments to trade and duplication of control activities while protecting the health of consumers and ensuring fair practices in the food trade, or whether some other mechanism is more appropriate for the circumstances. The discussions should cover **all relevant** ~~any~~ matters that the ~~importing country~~ **participating countries** considers are a prerequisite for a successful system equivalence recognition. The initial discussion should also address the potential scope of any **assessment of** equivalence of systems ~~assessment~~.

Rationale: Only relevant matters should be the part of discussions and relevancy should be decided on mutual basis rather than one sided. The document is talking about assessment of systems equivalence and not the equivalence of systems assessment.

9. **Comment:** Bullet 3 of Paragraph 14 may be modified as under:

whether **recognition of** an equivalence of systems ~~recognition~~ will likely result in reducing duplication of control activities and impediments to trade, while protecting the health of consumers and ensuring fair practices in the food trade;

Rationale: Objective is recognition of systems equivalence and not the equivalence of systems recognition.

10. **Comment:** Bullet 2 of paragraph 16 may be modified as under:

the range of assurances to be addressed (~~e.g. [food safety, qualitative claims, labelling, or other matters relating to fair practices in the food trade]~~);

Rationale: Not required to be specified here as it is already mentioned in paragraph 2 of preamble/introduction of the document.

11. **Comment:** Paragraph 19, the text may be modified as under:

Once the decision to commence and the associated scope has been discussed, the exporting country should formalise its request to the importing country for an **recognition of** equivalence of systems ~~recognition~~. The two countries should then agree on a plan for progressing the assessment which may include for example milestones, timeframes and if necessary priorities.

Rationale: Objective is recognition of systems equivalence and not the equivalence of systems recognition.

5.2 STEP 2: THE DECISION CRITERIA FOR COMPARISON

12. **Comment:** Paragraph 21 is not consistent with the text given under Paragraph 10 Step 2 and needs aligning.

Rationale: Paragraph 10 Step 2 indicates that importing country provides decision criteria, while paragraph 21 states that importing country in consultation with exporting country establishes decision criteria.

13. **Paragraph 24**

Comment: Further guidance on this paragraph in relation to how the level of variability and uncertainty inherent to the estimates of what the importing country's NFCS actually achieves are taken into account in the decision criteria, may be given.

14. **Comment:** Paragraph 30 may be modified as below:

Information should only be required for those areas **which need to be** subjected to a more detailed assessment **and** (~~that is not for those areas~~ **which are already** covered by existing experiences, knowledge and confidence).

Rationale: Editorial changes to put the things in correct perspective.

15. **Comment:** Paragraph 31 may be modified as below:

As an alternative to describing its own NFCS or the relevant part, importing countries **country** may reference the relevant international standards as a way to be certain its objectives can be met, **provided that such international standards are implemented in the importing country.**

Rationale: The importing country should not expect exporting country to meet any requirements over and above their national requirements (WTO Principle of National Treatment).

SECTION 5.4 STEP 4: DESCRIPTION OF IMPORTING COUNTRY'S NFCS

16. Comment: The title should be modified to '**Description of importing country NFCS or relevant part**' in line with the wordings under Paragraph 10 so as to maintain uniformity.

SECTION 5.5 STEP 5: ASSESSMENT PROCESS

17. Comment: Paragraph 37, a new bullet may be included to make it clear that the assessment process is led by the importing country

- 'be led by the importing country'

18. Comment: Bullet 1 and 3 of paragraph 40 may be modified as under:

- focus on whether the exporting country's NFCS meets the **agreed** decision criteria;
- not introduce an objective, outcome, standard or process in excess of what is being applied within the importing country without **proper scientific** justification.

Rationale: Editorial change in order to be specific

FIGURE 1:

19. Comment: Step to be included in terms of opportunity to exporting country for comment in case of negative decision

Rationale: In case Decision on equivalence is Negative by the importing country, step in terms of opportunity to the exporting country for commenting on the decision and providing additional information, if any, need to be included in terms of paragraph 39 of the document. Thereafter other steps would be followed as reflected in the figure.

Agenda Item 5

PROPOSED DRAFT GUIDANCE ON PAPERLESS USE OF ELECTRONIC CERTIFICATES (REVISION OF THE GUIDELINES FOR DESIGN, PRODUCTION, ISSUANCE and USE of GENERIC OFFICIAL CERTIFICATES – (CXG 38-2001)

Comments: India appreciates the work done by Netherlands and Australia.

Specific comments:

It has been observed that while revising the existing CAC GL 38-2001 for inclusion of provisions for paperless exchange, certain provisions have been revised which are not directly related to the paperless use of electronic certificates. For example, Appendix I, paragraph 5 under Scope and Objectives, "These guidelines may also apply to official certificates that are issued for feed for food producing animals" is proposed to be added which does not pertain to the paperless exchange and is out of scope of this revision.

Therefore, it is recommended that proposed revision should not propose amendments which fall outside the terms of reference of the current revision work.

Agenda Item 6

PROPOSED DRAFT PRINCIPLES AND GUIDELINES FOR THE ASSESSMENT AND USE OF VOLUNTARY THIRD-PARTY ASSURANCE PROGRAMMES

General comment: India appreciates the work of eWG led by United Kingdom with Canada and Mexico and support the new work on the development of Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance Programmes.

SPECIFIC COMMENTS:

SECTION B: SCOPE

1. Paragraph 7:

Comment: Add 'international' after national boundaries in first row

Rationale: Any country should be free to use this data within or out of national boundaries.

2. Paragraph 8:

Comment: We propose to Substitute 'compel' with 'oblige'

Rationale: Such guidelines in any case cannot compel competent authorities.

SECTION C: DEFINITIONS:**3. Comment:** The definitions for 'credibility' and 'integrity' may be deleted.

Rationale: These being dictionary definitions may not be needed in this document and do not add any specific value.

4. Definition of Voluntary TPA may be modified slightly as follows:

A non-governmental or **[public sector/governmental]** autonomous scheme comprising of the ownership of a standard that utilises national/international requirements; a governance structure for certification and enforcement, and in which FBO participation is voluntary.

Rationale: Autonomous does not indicate that it could also be in public sector and therefore does not bring out clarity to countries.

5. The term "Voluntary Third-Party Assurance Owners" has been used in document, but it is not clear as to who will be the programme owner. Therefore, it is suggested that the definition of "Voluntary Third-Party Assurance Owner or "programme owner" is given along with other definitions.**E: ROLES, RESPONSIBILITIES AND RELEVANT ACTIVITIES:****VOLUNTARY THIRD-PARTY ASSURANCE OWNERS****6. Paragraph b: Are accountable to FBOs that participate in vTPA programmes**

Comment: This clause is not clear as the scope of the accountability of the vTPA owners to the FBOs is not defined.

7. Paragraph c:

Comment: We propose to amend the clause as follows:

~~May choose to~~ **Should** share information/data generated by the vTPA programme for use by the competent authority.

Rationale: Under the Third party assurance arrangements, sharing of information/data with the competent authority is essential for fulfilling the purpose of these proposed guidelines and that of supporting competent authorities in confirming food safety outcomes and supporting its NFCS objectives. In absence of information/data sharing with the competent authorities, it will not be possible to check the reliability and credibility of such TPA programmes. Also this point contradicts with the Principle 1 and Principle 3 of these proposed guidelines.

8. Paragraph 13, point 4)

Comment: It may be modified as follows:

Does the TPA programme have an accreditation arrangement **and whether** that adheres to the International Accreditation Forum's (IAF) Multilateral Recognition Arrangement or the International Laboratory Accreditation Co-operation (ILAC)?

9. Paragraph 13, Standards setting Process:

Comment: Please add reference to Annexure 3 of TBT agreement.

Rationale: The document has elaborated good practices for standard setting and should be used while drafting any standard.

10. Paragraph 14, point d)

Comment: It may be modified as follows:

Competent authorities **may need to establish** ~~should have~~ transparent procedures in place to verify the reliability of the vTPA information/data that it intends using.

Rationale: It was decided earlier in the Working Group meeting that this is only to guide competent authorities and not advise them and therefore the terminology 'should' for the competent authorities may not be used, as can be seen from the other texts under this section.

Agenda Item 7**DISCUSSION PAPER ON FOOD INTEGRITY AND FOOD AUTHENTICITY**

Comment: India appreciates the work done by Islamic Republic of Iran, and co-chaired by the European Union and Canada. India supports to start new work on the development of Guidelines to prevent Food Fraud.