

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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Agenda Item 2

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION

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REVIEW OF THE JOINT FAO/WHO FOOD STANDARDS PROGRAMME

1. The 49th Session of the Executive Committee (September 2001) was informed that FAO and WHO had agreed in principle to the need and scope for a comprehensive review of the Codex programme.¹ Further discussions have since taken place between the parent organizations on the process to be followed for the review including the arrangements for an external review process. FAO Conference (November 2001) also welcomed the recommendation that the Joint FAO/WHO Food Standards Programme should be evaluated and took note that there would be an external component to its review.²
2. The evaluation/review will be undertaken during the calendar year 2002 by an independent evaluation team and an independent expert group under the auspices of the evaluation services of FAO and WHO (Office of Programme, Evaluation and Budget in FAO and the Department of Budget and Management Reform of WHO). The Terms of Reference of the Evaluation, including the timeframe, are attached to this paper.
3. It is envisaged that the draft evaluation report will be presented to a special session of the Executive Committee in late 2002 or early 2003. An interim report on the progress of the evaluation will be provided to the Executive Committee at the present session.

¹ ALINORM 01/4, para. 38.

² Report of the 31st Session of FAO Conference, Rome, 2-13 November 2001; C/2001 REP, para. 84. The recommendation was made by the 86th Session of the Programme Committee of FAO (September 2001) and is contained in its report CL 121/3, para. 37.

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TERMS OF REFERENCE OF THE JOINT FAO/WHO EVALUATION OF THE CODEX ALIMENTARIUS AND OTHER FAO AND WHO WORK ON FOOD STANDARDS

A. Background

1. The Codex Alimentarius Commission was established by FAO and WHO to implement the Joint FAO/WHO Food Standards Programme. The Programme's importance has gradually shifted from providing a basis for national standards, to providing the point of reference in standards, guidelines and codes of practice for international trade. The final act of the Uruguay Round of Multilateral Trade Negotiations includes two agreements designed to limit the impact of non-tariff barriers to trade and to subject such barriers to the disciplines of GATT and now the WTO. These are the broad WTO Agreements on Technical Barriers to Trade and the more specific WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement³). Domestic food safety measures which conform to the Codex standards, guidelines or other recommendations are presumed to be consistent with the SPS Agreement⁴ and with the General Agreement on Tariffs and Trade (1994).
2. The Codex Alimentarius Commission is a joint intergovernmental body of FAO and WHO with statutes and rules of procedure provided for in the structure of subsidiary bodies of the two organizations. It is open to all members of FAO and WHO and currently has 165 members. There are 29 subsidiary bodies of the Commission including regional, commodity and general committees, of which 24 are currently active.
3. The work of the Commission is supported by a small secretariat housed in FAO and funded jointly by FAO and WHO. The cost of individual commodity and general committees are met in whole or in part by host countries. Members bear the costs of their own participation in meetings. FAO and WHO also support, and bear the cost of, expert committees to provide advice in such areas as food safety risk assessment.
4. A number of issues have already been identified as being of importance in recent years and will be further examined in the evaluation. These include:
 - a)* Consumer concerns related to health, environment and culture have become of increasing political importance, especially in the developed countries. This has contributed to a growing demand for additional or alternative arrangements to Codex for setting food standards. Although such a development was explicitly rejected by the Group of 8 at its meeting in Okinawa (2000), which supported Codex, the underlying concerns are growing, fuelled by crises such as BSE;
 - b)* Related to the above, Codex has also been responding to demands to reflect ethical (or non-science based considerations) in food standards;
 - c)* Concerns that growing demands for food safety and consumer demands on consistency in labelling etc. are meaning Codex ways of working and possibly the whole approach to the establishment of standards and guidelines are:
 - i) making it almost impossible for developing countries, and increasingly difficult for developed countries, to participate and this is slowing processes further;
 - ii) leading to problems of adequate financing for the capacity of the small secretariat, expert advice and the work of individual committees;
 - d)* Inadequacy of funding to support developing countries in developing national capacity to implement Codex standards and guidelines; and

³ Annex A, paragraph 3 (a)

⁴ Article 3.2

- e) Concerns that Codex bodies may not always be entirely independent and free from conflict of interest or vested interest.

B. Purpose of the Evaluation

5. The Codex Alimentarius Commission, WHO and FAO secretariats and the FAO and WHO Governing Bodies have now all called from varying perspectives for an in-depth independent evaluation of the Codex Alimentarius Commission and the FAO-WHO work for the establishment of international food standards, guidelines and codes of practice. FAO is committed, at the request of the Programme Committee, to providing an independent evaluation of the Organization's work in food standards (conducted in line with the Organization's standard evaluation practices) to its Governing Bodies for May 2003. WHO is committed, at the request of the World Health Assembly 2000, to examine the FAO/WHO working relations with a view to increase WHO involvement in Codex, as well as support the inclusion of health considerations in international food trade. At its Forty-ninth (extraordinary) session in September 2001, the Executive Committee of the Codex Alimentarius Commission stated para. 42 "The Executive Committee welcomed this initiative (comprehensive review of the Joint FAO/WHO Food Standards Programme), including the proposal for an external component to the review process."
6. The evaluation is thus designed to provide an input into decision making on future policy, strategy and management at the level of the FAO and WHO Governing Bodies and their respective secretariats and to the joint FAO-WHO Codex Alimentarius Commission. The evaluation will address, in all their dimensions, the global requirement for food standards for the protection of consumer health, development of international⁵ and domestic trade and related ethical considerations. In so doing the evaluation will examine the respective requirements of producers, industry, traders, consumers and regulators.
7. The evaluation will provide recommendations and considerations for the future on the relevance of standards or alternative approaches in meeting the overall objectives in consumer protection, in particular for health risks and in ensuring fair practices for food trade. It will also provide alternatives for consideration in meeting future world requirements for food standards which provide the desired benefits in adequately satisfying the needs of both developing and developed countries and food importers and exporters at reasonable direct and indirect cost. The evaluation is thus formative, basing considerations for the future on an examination of past performance, current and emerging challenges and innovative ideas.

C. Coverage of the Evaluation

8. The evaluation will examine issues including, but not restricted to:
 - a) The evolving context and challenges, including:
 - i) the relevance and adequacy of standards as instruments for:
 - prevention of foodborne diseases and other health risks;
 - food safety risk management;
 - consumer protection;
 - trade and economic development;
 - production practice.
 - ii) the expectations of different groups of countries, at official government level, as to standards in imports and exports and for domestic trade, particularly as regards the validity and acceptability of standards:
 - science base;

⁵ including concessional transactions

- level of risk and inclusion of precautionary approaches;
 - ease of verification and clarity as a reference point in trade;
 - labelling and comparability of descriptors (e.g. in organic food);
 - ethical and cultural considerations; and
 - comprehensivity and degree of generalisation.
- iii) the expectations of different groups of countries, at official government level, as to institutional mechanisms for standard setting including:
- the structure and procedures of the Codex Alimentarius Commission and its subsidiary bodies
 - the technical and administrative support given to the work of the Commission by FAO and WHO, including secretariat and expert committees;
 - possibilities and limitations for participation in the decision making processes;
 - direct and indirect costs and ways of covering them.
- iv) the particular interests of developing countries, as regards:
- assistance to implement standards;
 - participation in the standard setting process.
- v) the expectations of producers, industry and civil society and their likely impact on international standard setting; and
- vi) the institutional relationships between related standard-setting bodies such as the IPPC, and OIE.
- b)** The effectiveness of the existing arrangements in meeting the requirements identified above. Efforts will be made to bench-mark and compare the methods of work and approaches with those of other standard setting bodies⁶. Areas to be covered include the overall adequacy of the:
- i) response by FAO and WHO;
 - ii) existing standards and significant lacuna in the architecture for international trade (quality, coverage, ease of application, etc.);
 - iii) adequacy of standards as a model for national standard setting for domestic commerce;
 - iv) the adequacy of institutional arrangements, including an examination of independence, conflict of interest and responsiveness to members, and:
 - 1) the structure of the Codex Alimentarius Commission and its subsidiary bodies;
 - 2) the methods of work of the Codex Alimentarius Commission (including authority to propose changes in the statutes, rules and traditions of procedure);
 - 3) the structure and management of the Codex Secretariat;
 - 4) the structure of advisory committees and panels;
 - 5) whether the same arrangements can adequately and efficiently satisfy the needs of standards for trade and the needs of developing countries in establishing domestic standards;
 - 6) participation of countries in the process;
 - 7) participation of non-governmental stakeholders;

⁶ Other standard setting bodies include: ISO, OIE, FAO-IPPC and WHO-Drugs

- 8) efficiency and effectiveness with respect to all aspects (science, communication, ethics, policy, governance and politics) of the committee structures, procedures and secretariat arrangements;
 - 9) assistance to developing countries by FAO, WHO and through other partners;
 - 10) relationships to other international bodies setting standards and responsible for regulatory frameworks and to the WTO.
- c) Issues for the future based on the above analysis, innovative forward thinking and also examining any potential advantages from:
- i) potentially quite different approaches to those at present in place for:
 - consumer protection (especially for health) and economic development through clarity in international and domestic trade;
 - standard setting at both domestic and international levels; and
 - alternative institutional and/or funding arrangements.
 - ii) the implications for developing countries if food standards setting for international trade were allowed to become the preserve of the developed countries and main trading nations;
 - iii) mobilisation of adequate support for developing country capacity building and participation in the standard setting processes.

D. Arrangements for Management and Conduct of the Evaluation

9. **Management of the evaluation:** To ensure its independence, the evaluation will be managed jointly by the evaluation units of FAO and the Management Reform in the Department of Budget and Management Reform WHO. They will consult with the concerned technical units in WHO and FAO on all substantive matters, including selection of evaluation consultants and the Independent Expert Panel members. The technical units of FAO and WHO will also be used by the evaluation managers for technical inputs and can communicate concerns, ideas and questions to the Evaluation Team and the Independent Expert Panel through the evaluation managers.
10. **The Evaluation team:** The evaluation team will carry out the core work of the evaluation in line with the terms of reference and will consist of a core of five persons who can draw on flexibly on technical resource persons (subject to budget):
 - a) a senior fully independent team leader with a policy background and firm understanding of the issues agreed by FAO and WHO;
 - b) two independent technical consultants, representative of major stakeholders in foods standards - appointed one by FAO and one by WHO; and
 - c) one senior representative of the FAO Evaluation Service and one senior representative of WHO evaluation.
11. **Independent Expert Panel:** The Independent Expert Panel will review terms of reference and the initial workplan for the evaluation, suggesting any changes it considers desirable and raising questions and issues which it considers should receive particular attention in the evaluation. The expert panel will in particular be looked to for innovative and divergent ideas which can be examined during the course of the evaluation. The Independent Expert Panel will reconvene and together with other peer reviewers consider and make comments on the preliminary report of the Evaluation Team. The Evaluation Team will then make whatever adjustments they consider desirable. The Expert Panel will also prepare its own report commenting on the findings of the evaluation and making such additional or divergent recommendations as it see fit. During the course of the evaluation the expert panel will be informed of progress and the evaluation team may refer any queries they wish to the panel. The panel through its chairman and the FAO/WHO evaluation management may refer additional ideas to the team during the course of the evaluation through virtual discussion.

12. The Independent Expert Panel will have a fully independent chairman selected in agreement between FAO and WHO. The panel membership will additionally include eight external and independent experts selected for their knowledge in areas relevant to food standards and their ability to think innovatively on the future role of food standards and Codex in the global food system. The eight independent members will be nominated four each by FAO and WHO based on agreed criteria. The composition of the Panel will be multi-disciplinary, geographically representative, gender-balanced and diverse in view point including the following: food safety control; public health; international food trade; food standards; consumer rights; food safety research; risk communication; and international collaboration and development.
13. Other consultation and review: The evaluation management will refer the terms of reference and the draft report of the evaluation to wider group for comment. This group which may also be used as a resource for information and consultation by the evaluation team will include the Chairman and three vice-chairpersons of Codex and at least one representative from industry and consumers.
14. Reporting: The preliminary draft report of the evaluation will be submitted to the Secretariats of WHO and FAO, to the Independent Expert Panel and to a wider group of peer reviewers as indicated above for their comments. In the light of these comments the evaluation team will make whatever changes it sees fit. The findings of the Independent Expert Panel and any additional recommendations they wish to make will be submitted together with the report of the Evaluation Team to the Directors-General of FAO and WHO and will be presented together with the Evaluation Team report and the two Secretariat responses to the Governing Bodies of FAO and WHO offices and to the Codex Alimentarius Commission in 2003.

E. Conduct and Timetable of the Evaluation

15. The evaluation will commence with a desk study by the evaluation unit representatives of the existing situation and issues to provide a framework for subsequent work. Resources permitting the desk study will include case studies of the development of three to five different standards and guidelines (typical of different types) and overlapping case studies of the working of a number of Codex committees and arrangements for expert advice. An extensive country enquiry will take place to countries selected by the evaluation team as fully representative of existing and potentially important users of international food standards. This will be accomplished through a questionnaire survey and visits to discuss with a wide range of stakeholders in some 14-20 countries representative of each region and WHO and FAO offices. In the case of developing countries visits will also be used to establish the benefits of any technical cooperation (projects and other forms of assistance to be identified by FAO and WHO).
16. The evaluation will work in English (except for country visits) in order to contain costs, and will follow the following steps:
 - a)* Desk study by the evaluation unit representatives of the existing situation (completion by May 2002);
 - b)* Expert Panel Meeting (May 2002);
 - c)* Enquiry to governments and other stakeholders on their requirements and views with respect to food standard setting and their satisfaction with the existing arrangements (April-July 2002);
 - d)* Preparation of a consultative report on findings, issues and possible recommendations by the evaluation team (September 2002);
 - e)* Discussion of the report with the Independent Expert Panel, peer reviewers and the WHO and FAO Secretariats (October 2002);
 - f)* Examination of the report by the Independent Expert Panel in a meeting and preparation of the Expert Panel Report (October 2002);
 - g)* Finalisation of its report by the Evaluation Team (November 2002);
 - h)* Presentation of the report of the evaluation and of the expert panel together with the responses of FAO and WHO Directors-General to the two Organizations' Governing Bodies and the Codex Alimentarius Commission:

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- i) Executive Committee of the Codex Alimentarius Commission at a special session (to be decided);
 - ii) Programme Development Committee of WHO, December 2002
 - iii) WHO Executive Board, January 2003
 - iv) FAO Programme Committee (May 2003) and through them, together with their comments to the FAO Council (June 2003) and Conference (November 2003); and
 - v) Codex Alimentarius Commission (mid-2003).