

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of
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JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON FRESH FRUITS AND VEGETABLES

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BACKGROUND DOCUMENT ON POINT OF APPLICATION OF CODEX STANDARDS FOR FRESH FRUITS AND VEGETABLES INCLUDING QUALITY TOLERANCES AT IMPORT/EXPORT CONTROL POINTS

Introduction

1. The 15th Session of the Committee on Fresh Fruits and Vegetables (October 2009) agreed to request the Codex Secretariat to prepare a background document containing discussions at previous sessions of the Committee on the issue of point of application of Codex standards for fresh fruits and vegetables.¹
2. The issue was raised when considering the Codex Standard for Apples in relation to the need to differentiate between quality tolerances at import/export control stages to ensure that the produce can comply with the provisions of the Standard. In particular, quality tolerances linked to the deterioration of the product due to their development and their tendency to perish (e.g. internal breakdown, decay) during transportation following export by which zero tolerances that could result in large scale rejections of consignments. Some delegations expressed support for higher percentage values at destination only. Other delegations proposed to follow the same approach taken in the UNECE standards by recognizing that a slight lack of freshness and turgidity due to the development and perishability of the produce may occur if applied at stages following export.
3. The Committee could not agree on the need to keep the reference to both export/import points and therefore agreed to retain the tolerances for decay and internal breakdown with no mention of the shipping/destination points so that the application of such provisions would be up to individual countries. In addition, a general statement on the perishable nature of the produce was entered under the quality tolerances. This statement reproduces the corresponding provisions in UNECE standards that apply to quality provisions as opposed to quality tolerances as laid down in the Codex Standard for Apples. It is however noted that the revised layout for UNECE standards for fresh fruits and vegetables incorporates tolerances for produce affected by decay which is in line with the approach taken in the Codex Standard for Apples. This could form the basis for further discussion during the consideration of the layout of Codex standards for fresh fruits and vegetables as this issue is being considered by a number of countries as of general application to Codex standards for fresh fruits and vegetables.²

Point of application of Codex standards for fresh fruits and vegetables

4. The issue of point of application of Codex standards for fresh fruits and vegetables was discussed in detail by the Committee at its early sessions of work on standardization of fresh fruits and vegetables. The point of application was linked to the scope of Codex standards, which provide for the "free distribution" of the product on the territory of the importing country i.e. they apply at export/import control points and to further distribution/sale, the scope of UNECE standards, which apply at export control stages, the Terms of Reference of the Committee "*to consult with the UNECE ... in the elaboration of worldwide standards ... with particular regard to ensuring that there is no duplication of standards ... and that they follow the same broad format.*" and the agreement of the Committee to continue to adhere³ to the decision of the Commission whereby the UNECE format would be respected for quality characteristics, while the Codex format would be respected for those provisions not dealing exclusively with commercial quality.
5. Codex standards applying at all points of the distribution chain are based in the (1947) GATT which required that imported products had "no less favourable treatment" than products of national origin and are consistent with the WTO SPS/TBT Agreements that also refer to "*... sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members ...*" and that "*... products imported from the territory of any Member shall be accorded treatment no less favourable than that accorded to like products of national origin ... and to like products originating in any other country...*".

¹ ALINORM 10/33/35, paras. 106-107.

² ALINORM 04/27/35, paras. 62-63, ALINORM 08/31/35, paras. 80-85, ALINORM 10/33/35, paras. 35-40.

³ ALINORM 91/35, para. 18, ALINORM 93/35, para. 19.

6. However, in order to ensure cooperation between Codex and UNECE, the Commission agreed with the recommendation of the Committee on General Principles that there were elements of the standards which would apply equally at export and at import, while there were others which had to take into account a certain deterioration of quality during transport therefore *"governments, when indicating the acceptance of a Codex standard for fresh fruits and vegetables, should notify the Commission which provisions of the standard would be accepted for application at the point of import, and which provisions would be accepted for application at the point of export"*.⁴ This provision was consistently applied by the Committee as a footnote to the definition of produce in all Codex standards for fresh fruits and vegetables. In line with this decision, the Committee also decided that percent tolerance differences based on export and import will be combined to reflect one figure applicable to all stages of marketing⁵.

Code of Practice for the Packaging and Transport of Fresh Fruits and Vegetables

7. Further, in order to reinforce the fact that Codex standards are applicable at all levels of distribution but at the same time to also recognize the problem of perishability in fresh products especially when they are stored and transported for a long period of time, it was noted that problems relating to the perishability of the commodities in transport had been resolved in some cases by the preparation of agreements with exporting governments relating to the conditions of packaging, transport, etc. therefore the elaboration of a code of practice in this area might assist the Committee in the elaboration of the standards.

8. The Committee therefore agreed with the development of a Code of Practice for the Packaging and Transport of Fresh Fruits and Vegetables relating to the condition of packaging and transport *"to recommend proper packaging and transport of fresh fruits and vegetables in order to maintain produce quality during transportation and marketing"*⁶. This Code takes into account the basic responsibilities of growers, packers, shippers, marketers, etc. to ensure that all necessary steps are taken concerning quality and safety of the produce so that the standard can be applicable at points of export, import, wholesale and retail sale. This is the reason why all the standards for fresh fruits and vegetables refer to the Code in Section 5.2.

9. In line with this requirement, an additional provision that reads: *"The development and condition of the product must be such as to enable them to withstand transport and handling and to arrive in satisfactory condition at the place of destination"* was included in all standards for fresh fruits and vegetables.⁷

Application of quality tolerances at import

10. While the Committee noted that Codex standards for fresh fruits and vegetables included a footnote indicating that governments should indicate which provisions of the standard apply at the import or export control stages, the importance of establishing specific and separate quality tolerances for produce shipped over long distances at the import control stage was again emphasized by following sessions of the Committee.

11. To ensure the optimum quality of fresh fruits and vegetables, growers, shippers and carriers must observe the Code of Practice for the Packaging and Transport of Fresh Fruits and Vegetables. However, even if all the necessary precautions were taken by them, produce can still arrive at the import stage at a lesser level of quality.

12. The Committee agreed that an interpretative document concerning the application of quality tolerances at import be developed for consideration. Three options were considered: (1) quality tolerances at the import control stage are the same as the tolerances at shipping point, (2) higher quality tolerances at the import stage and (3) let buyers and sellers set quality tolerances through a contractual agreement stricter than those set out in the first option at the import stage.

13. The Committee noted that in many cases, a great amount of transport time was required in the shipment of perishable produce. However, it was also recognized that governments commonly harvest and export produce in order to arrive at import in compliance with established tolerances on the basis of minimum requirements in product standards and was noted that compliance with such tolerances was often the responsibility of buyers and sellers. In view of this, the Committee decided not to pursue this issue further.⁸

Latest Developments

14. In 2005 the Committee *"agreed to delete the footnote referring to the notification of acceptance to the Codex Alimentarius Commission in view of the abolition of the Codex Acceptance Procedure as it was no longer relevant in the framework of the WTO SPS/TBT Agreements and applied this decision across Codex standards for fresh fruits and vegetables"*⁹. Consequential amendments were then introduced in all Codex standards for fresh fruits and vegetables accordingly.

⁴ ALINORM 91/35, para. 8, ALINORM 93/35, paras. 19 & 26.

⁵ ALINORM 91/35, paras. 32 & 41.

⁶ Recommended International Code of Practice for the Packaging and Transport of Fresh Fruits and Vegetables (CAC/RCP 44-1995).

⁷ ALINORM 91/35, paras. 74-78.

⁸ ALINORM 93/35 paras. 27-28, ALINORM 97/35, paras. 81-82, ALINORM 97/35A, paras. 76-79.

⁹ ALINORM 05/28/35, para. 19.

Conclusion

15. Throughout the years, several delegations have expressed the need for guidance on how to interpret and apply provisions in Codex standards for fresh fruits and vegetables i.e. point of application and quality tolerances. In view of the removal of the footnote, and the fact that Codex standards apply to all levels of the distribution chain, there could be some merit in revisiting the provisions of the footnote taking into account the abolition of the Codex Acceptance Procedures as irrelevant in the framework of the WTO Agreement and re-install the footnote to the definition of the produce as follows:

Old Footnote: Governments when indicating the acceptance of a Codex standard for fresh fruit or vegetable should notify the Commission which provisions of the Standard would be accepted for application at the point of import and which provisions would be accepted for application at the point of export.

New Footnote: The importing country, when applying a Codex standard for fresh fruits and vegetables, should notify the exporting country which provisions of the Standard would be accepted for application at the point of import and which provisions would be accepted for application at the point of export.

16. The statement in the UNECE standards related to the perishability of fresh fruits and vegetables can also be included in Codex standards for fresh fruits and vegetables as indicated below. This will follow the approach taken in the Codex Standard for Apples.

2. PROVISIONS CONCERNING QUALITY

If the Standard applied at stages following export, products may show in relation to the requirements of the standard:

- a slight lack of freshness and turgidity
- <for products graded in classes other than the "Extra" Class,> a slight deterioration due to their development and their tendency to perish.

The holder/seller of products may not display such products or offer them for sale, or deliver or market them in any manner other than in conformity with this standard. The holder/seller shall be responsible for observing such conformity.

17. Tolerances for decay may also be included under the quality tolerances for "Extra" Class and Class I/II as indicated in the UNECE Standard Layout. This approach is also consistent with the Codex Standard for Apples.

4.1 Quality tolerances

4.1.1 "Extra" Class

A total tolerance of 5 per cent, by number or weight, of *{name of produce}* not satisfying the requirements of the class but meeting those of Class I is allowed. Within this tolerance not more than 0.5 per cent in total may consist of produce satisfying the requirements of Class II quality.

4.1.2 Class I

A total tolerance of 10 per cent, by number or weight, of *{name of produce}* not satisfying the requirements of the class but meeting those of Class II is allowed. Within this tolerance not more than 1 per cent in total may consist of produce satisfying neither the requirements of Class II quality nor the minimum requirements, or of produce affected by decay.

4.1.3 Class II

A total tolerance of 10 per cent, by number or weight, of *{name of produce}* satisfying neither the requirements of the class nor the minimum requirements are allowed. Within this tolerance not more than 2 per cent in total may consist of produce affected by decay.

18. The Committee is invited to consider this paper when discussing the relevant provisions in individual standards including the Proposed Layout for Codex standards for fresh fruits and vegetables.