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JOINT OFFICE: Viale delle Terme di Caracalla 00100 ROME Tel: 39 06 57051 www.codexalimentarius.net Email: codex@fao.org Facsimile: 39 06 5705 4593

Agenda Item 6

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS

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DISCUSSION PAPER ON THE REVISION OF THE GUIDELINES FOR GENERIC OFFICIAL CERTIFICATE FORMATS AND THE PRODUCTION AND ISSUANCE OF CERTIFICATES

(Prepared by the United States with the assistance of the European Community, India, Iran, and the Philippines)

BACKGROUND

1. The 12th Session of the Codex Committee on Food Import and Export Inspection and Certification Systems, during its consideration of possible new work, considered the need for further elaboration of certain provisions of the Codex *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001). The United States, in a Project Document prepared for the Committee's consideration, noted that CAC/GL 38-2001 is intended to provide guidance to countries on the use of export certificates to protect consumer health, but that, in practice, export certificates are used to attest to a wide variety of conditions, including attestations not necessarily related to food safety. Further, it was indicated that export certificates requested by an importing country might require attestations that are outside the scope of the certifying authority of the exporting country. Additionally, circumstances may arise where multiple attestations are requested by an importing country that are redundant.

2. The Project Document indicated that the scope of the proposed new work would be to expand and clarify Section 5 (Principles) of the Codex *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001). The Project Document presented the following main aspects to be covered.

- a) Clarify when export certificates may be necessary or useful to assure product safety, prevent economic fraud, or assure essential quality, in order to protect consumer health and facilitate international trade.
- b) Clarify attestations that are appropriately required from competent authorities and those that should be from commercial entities.
- c) Identify those attestations that maybe redundant or unnecessarily burdensome or discriminatory.
- d) Harmonize international requirements for the nomenclature of attestations including definitions for common terms (e.g., "sanitary certificate", certificate of free sale").

3. The Committee, at its 12th Session agreed to undertake the development of a *Discussion Paper on the Revision of the Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* and accepted the invitation of the United States to lead a drafting group with the assistance of India, Iran, the European Community and the Philippines to prepare the Paper¹.

¹ ALINORM 04/27/30, paragraph 88.

4. We note that, while the Project Document speaks to a further elaboration of Section 5, Section 6 includes a sub-section on attestations. Since attestations are included within the main aspects of the proposed new work, it would seem appropriate to include a review of the “Attestations” section and this aspect is included in this Discussion Paper.

5. While not specifically mentioned in the Project Document, we would suggest that the following items be considered by the Committee in the inclusion of work on this topic.

- a) The application of an export certificate to the shipment of multiple lots of the same product (permitted duration of use of an export certificate).
- b) The situation that arises when an exporting country does not maintain an official certifying body for an export certificate requested by importing country.
- c) The relationship between export certificates for products and requirements for registration of facilities and product labelling, including the frequency of need for such registration.

For purposes of discussion these areas are included in this Paper.

Pertinent Provisions of the *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates (CAC/GL 38-2001)*

6. For ease of reference, it is useful to recall the following provisions of the *Codex Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* that have applicability to this Discussion Paper.

From Paragraph 1: “These guidelines recognize that importing country authorities may, as a condition of clearance of consignments, require importers to present certification issued by, or with the authority of, exporting country authorities. These guidelines do not mandate a need to use such certification or in any way diminish the trade facilitatory role of commercial or other types of certificates, including third party certificates, not issued by, or with the authority of, exporting country authorities.”

From Paragraph 2. “Certificates should be required only where declarations are necessary relating to product safety or suitability for consumption, or to otherwise facilitate fair trade.”

From Paragraph 5. “Certificates should contain essential information relating to food safety and the facilitation of trade. The level of information required should be adequate for the importing country’s purpose and not impose unnecessary burdens on the exporting country or exporter, nor should there be a requirement for the disclosure of information that is commercial-in-confidence unless it is of relevance to public health.”

From Paragraph 6. “Certificates should be required only where declarations are necessary to provide information about product safety or suitability for consumption, or to otherwise facilitate fair trade. Multiple or redundant certificates should be avoided to the extent possible.”

From Paragraph 18: “The particular attestations to be included in a certificate will be determined by the requirements of the importing and exporting country...and may include but are not limited to:

- Health status as it may affect the safety of food;
- Product conformity with particular standards, production or processing requirements;
- The status (e.g., licensing details) of production, processing and/or packaging establishment in the exporting country; and,
- Reference to any associated bilateral/multilateral agreement.”

Revision of the Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates

7. Section 1 of *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001) recognizes the use by importing countries of official certificates issued by, or on the authority of, exporting country competent authorities for the purposes of clearing consignments. Section 1 also recognizes the role of commercial certificates or other types of certificates, including third party certificates, not issued by, or with the authority of, exporting countries. Section 6 (paragraph 18) indicates attestations that can be provided by official certificates (e.g., health status as it may affect the safety of the food, product conformity with particular standards, production or processing requirements).

8. However, the Guidelines provide no substantive information on when attestations by national authorities may be necessary versus when attestations are more appropriately obtained from parties other than national authorities. It is suggested that Section 5 (Principles) and/or Section 6 (Criteria) be revised to provide additional information on:

- A. When attestations from national competent authorities or their officially recognized representatives may be necessary, such as when:
 - a) Attesting to product safety (e.g., disease status, good manufacturing practices, chemical residues, chemical and/or microbiological contaminants);
 - b) Necessary to prevent fraud or deception;
 - c) Quality specifications require national verification (e.g., officially recognized product grade standards).
- B. When certification by exporters, third party or commercial bodies not recognized by competent authorities is most appropriate, such as when attesting to:
 - a) Specific product attributes;
 - b) Composition or formula specifications;
 - c) Conformance to marketing standards;
 - d) Conformance with importing country standards or criteria (e.g., chemical, microbiological) for purposes of satisfying importer requirements.
 - e) Religious requirements when such requirements are not officially required by importing countries.

9. It may often be the case that national legislation may not authorize the specific “attestations” requested by importing countries or that national legislation may provide certification authority to departments or agencies different than identified by the importing country. It is suggested that the Guidelines be revised to incorporate these types of situations and that flexibility by the importing countries may be required to resolve difficulties associated with these problems, so long as the safety of the product is not jeopardized.

10. Section 5 indicates that “multiple or redundant certificates should be avoided to the extent possible”. It is suggested that either Section 5 or Section 6 be revised to indicate when certificates are considered duplicative or redundant, for example when:

- a) Multiple certificates with similar information are required by different agencies within an importing country;
- b) Multiple certificates are required for different attributes when a single attestation would suffice;
- c) Multiple certificates from the same competent authority are required for the same product;
- d) Multiple certificates with similar information are required from different certifiers within the exporting country;
- e) Entry certification duplicates information already submitted and approved through registration or licensing procedures (e.g., registration numbers should suffice for products certified and approved for market).

- f) Lot by lot certification for low risk prepackaged food products already approved for market entry.

11. It is suggested that clarification regarding the application of an export certificate to the shipment of multiple lots of the same product (permitted duration of use of an export certificate), would also be helpful to reduce the need for multiple certificates.

12. Section 6 provides basic guidance relating to attestations. However, no guidance is provided regarding the particular language to use in attesting to specific needs (e.g., health status, product conformity with particular standards, production or processing requirements). It is not uncommon for different countries, and for different competent authorities within a country, to employ different attestation language to certify to the same or very similar requirements and/or to use different names for certificates that attest to the same requirement. The Committee is invited to consider whether it would be helpful for CCFICS to develop suggested attestation language for use in common attestation situations and to also consider the usefulness of recommending harmonized names for export certificates.

13. It is occasionally the case that requested certificates require the provision of proprietary information pertaining to product formulation when such information is not absolutely essential to ensure the safety of the product or to prevent economic fraud or deception. It is suggested that the Guidelines be revised to indicate that requests for propriety information should relate directly to the need to ensure product safety or to prevent economic fraud or deception and further, that if such information is requested, adequate means to protect such information shall be employed and communicated to the exporter.

14. In a related area, the Committee may wish to consider the relationship between facility and label registration requirements and certifying product for export, including the frequency of need for such registration and whether considerations of this area should be undertaken within the scope of the proposed revisions to the *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates*.

Recommendations

15. The Committee is invited to consider the above suggestions to revise the *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001) and, as appropriate, to recommend the revision of the Guidelines to incorporate areas noted, either through amendments to the text, or through the development of annexes.

16. It is also noted that the Committee has agreed to the development of proposed draft “principles for electronic certification”². The Project Document submitted for this work suggested that this work be accomplished through additions to the same document that is the subject of this Discussion Paper, *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001). It is recommended that all work carried out with respect to the *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* be coordinated to ensure the consistency of the document.

² ALINORM 04/27/30, paragraph 88.