

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD  
HEALTH  
ORGANIZATION



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Agenda Item 2

CX/FICS 05/14/2  
October 2005

## JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS

Fourteenth Session

Melbourne, Australia, 28 November – 2 December 2005

### MATTERS REFERRED BY THE CODEX ALIMENTARIUS COMMISSION AND OTHER CODEX COMMITTEES AND TASK FORCE <sup>1</sup>

#### PART 1. MATTERS ARISING FROM THE 28<sup>TH</sup> SESSION OF THE CODEX ALIMENTARIUS COMMISSION

##### 1.1 Draft and Proposed Draft Standards and Related Texts adopted as Final Texts at Step 8 and Steps 5/8<sup>2</sup>

1. The Commission **adopted** the proposed draft Principles for Electronic Certification as proposed by the Committee and noted that the application of electronic certification was not mandatory and that the Principles aimed at providing guidance to those countries wishing to implement an electronic certification system. The Commission **agreed** to attach the Principles, as an Appendix, to the *Codex Guidelines for Generic Official Certificate Formats and the production and Issuance of Certificates* (CAC/GL 38-2001).

##### 1.2 Proposals to elaborate new Standards and Related Texts<sup>3</sup>

2. The Commission **approved** proposals for new work on the following standards and related texts as proposed by the Committee at its 13<sup>th</sup> Session:

- Proposed Draft Principles for the Application of Traceability/Product Tracing in the Context of Food Import and Export Inspection and Certification Systems (N04-2005);
- Proposed Draft Revision of the *Codex Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001) (N05-2005).

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<sup>1</sup> This document only contains information on matters arising from or referred by the Codex Alimentarius Commission (Part 1) and other Codex Committees and Task Forces (Part 2) that are specific to the activities of the Codex Committee of Food Import and Export Inspection and Certification Systems. Other decisions and guidance of the 28<sup>th</sup> Session of the Commission are found in ALINORM 05/28/41. The Codex Secretariat will report verbally on matters of horizontal nature as appropriate to the discussion of the Committee.

<sup>2</sup> ALINORM 05/28/41, para. 48 and Appendix V.

<sup>3</sup> ALINORM 05/28/41, para. 93 and Appendix VIII.

### 1.3 Other Matters<sup>4</sup>

#### *Clarification of the Reference to “A Reasonable Interval” in the Codex Guidelines for Food Import Control System*

3. The Commission **adopted** the addition of a footnote to reference to the “WTO decision WT/MIN (01)17” to paragraph 35 of the *Codex Guidelines for Food Control System* (CAC/GL 47-2003), as proposed by the Committee.

## **PART 2. MATTERS REFERRED BY OTHER CODEX COMMITTEES AND TASK FORCES**

### **2.1 Codex Committee on General Principles (22<sup>nd</sup> Session - Paris, France, 11-15 April 2005)<sup>5</sup>**

#### **Proposed Draft Revised Code of Ethics for International Trade in Foods**

4. The Committee **agreed to ask the CCFICS** to consider whether it could provide recommendations to address the question of “the subsequent export of food, whether imported or produced domestically, that had been found to be unsafe or unsuitable or otherwise did not meet the safety standards of the exporting country”, within its terms of reference, and also consider whether further guidance could be provided to remedy the problems faced by countries with insufficient capacity to conduct import food control. The **Committee requested the CCFICS** to review, where necessary, the comments included in the working documents considered by the CCGP at the present session. It was noted that the Australian Secretariat to CCFICS would reproduce the comments<sup>6</sup> presented to the present session as part of the working documents for CCFICS.

5. The discussion of the 22<sup>nd</sup> Session of the Codex Committee on General Principles on the “Proposed Draft Revised Code of Ethics for International Trade in Foods”<sup>7</sup> is reproduced in Annex 1 of this document.

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<sup>4</sup> ALINORM 05/28/41, para. 188.

<sup>5</sup> ALINORM 05/28/33A, para. 72.

<sup>6</sup> CX/GP 05/22/5 (comments of Argentina, Australia, Bolivia, Brazil, Canada, Colombia, Cuba, European Community, New Zealand, Paraguay, Tonga, United States, CI, IACFO, IBFAN CX/GP, CX/GP 05/22/5-Add.1 (comments of Coordinating Committees), CX/GP 05/22/5-Add.2 (comments of Nigeria, ISO), CRD 2 (comments of Paraguay), CRD 3 (comments of Cuba), CRD 4 (comments of Kenya), CRD 9 (comments of Chile), CRD 12 (comments of Malaysia), CRD 13 (comments of the Philippines).

<sup>7</sup> ALINORM 05/28/33A, paras 55-73.

**PROPOSED DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOODS  
(Agenda Item 4)<sup>8</sup>**

55) The Secretariat recalled that the 20<sup>th</sup> Session of the Committee had agreed to seek the advice of the 27<sup>th</sup> Session of the Commission as regards the need to revise the Code of Ethics. The Commission had agreed to address six questions to the Committee on General Principles in order to clarify the issues involved. These questions had been subsequently circulated for comments in Circular Letter CL 2004/57-GP. In addition, all FAO/WHO Coordinating Committees had been invited to discuss this issue and their comments were presented in CX/GP 05/22/5-Add.1.

56) The Chairperson invited the Committee to consider the questions put forward in the Circular Letter one by one. The Committee discussed the first question concerning the need for a Code of ethics; however since the questions were closely related, other aspects were also considered in the discussion.

57) The Delegation of Senegal pointed out that the Code provided ethical principles but that the main problem faced by developing countries was the lack of infrastructures and trained personnel to implement efficient food control at the national level, including at the import stage. Several delegations stressed the difficulties of developing countries in this area and supported the continuation and strengthening of FAO and WHO technical assistance in order to improve food control systems. Some of these delegations expressed the view that capacity building in the area of food control would assist developing countries more effectively than the development of general principles in a code of ethics. The Delegation of Zimbabwe was particularly concerned with the need to strengthen food control systems with regard to monitoring the safety and quality of donated food.

58) The Delegation of Argentina expressed the view that the provisions of the Code had been superseded by the provisions of the WTO SPS and TBT Agreements. However, as the present Code might be used by countries that were not members of WTO, the Delegation suggested to retain the present Code without revision and stated that the prevention of unethical trade practices would be better addressed through the strengthening of food control capacities. The Delegation therefore proposed to retain the current Code of Ethics and to discontinue work on its revision, recalling that this was the position of the Coordinating Committee for Latin America and the Caribbean. This position was supported by several delegations.

59) Several delegations pointed out that no consensus had been reached on the revision of the Code although it had been under consideration for several sessions and expressed the view that it would be a waste of resources to proceed with such work.

60) Several other delegations supported further work on the revision of the Code, especially in order to address the problems of export of sub-standard food and to set out ethical principles and recommendations that would provide guidance to member countries, especially to developing countries that were not able to carry out effective food control, and to food trade operators. These delegations stated that the WTO Agreements' primary objective was to reduce unnecessary barriers to trade, and consequently there was still a need for a revised Code.

61) Some delegations pointed out that the Coordinating Committees for Africa and for the Near East had supported the revision of the Code and that their views should be taken into account, especially as many of the countries from these regions were not present at the session.

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<sup>8</sup> CL 2004/57-GP, CX/GP 05/22/5 (comments of Argentina, Australia, Bolivia, Brazil, Canada, Colombia, Cuba, European Community, New Zealand, Paraguay, Tonga, United States, CI, IACFO, IBFAN CX/GP, CX/GP 05/22/5-Add.1 (comments of Coordinating Committees), CX/GP 05/22/5-Add.2 (comments of Nigeria, ISO), CRD 2 (comments of Paraguay), CRD 3 (comments of Cuba), CRD 4 (comments of Kenya), CRD 9 (comments of Chile), CRD 12 (comments of Malaysia), CRD 13 (comments of the Philippines).

62) The Observer from Consumers International strongly supported the revision of the Code in view of its importance for consumers, and stressed the need to develop ethical principles and to define unethical practices more clearly in the Code. The Observer expressed concern with overly emphasizing trade considerations in the framework of Codex and at the national level in many countries, and stressed that consumer protection should be the main consideration at the international and national level. This position was supported by several observers. The Observer from NHF supported the written comments of Paraguay and expressed the view that the Code should apply to non commercial transactions as well.

63) Some delegations pointed out that the principles and objectives of Codex provided an ethical basis for all Codex work, as reflected in the General Principles of Codex Alimentarius and in the elaboration of standards and related texts intended to ensure consumer protection.

64) The Representative of FAO informed the Committee that FAO had established a High Level Panel on Ethics in Food and Agriculture to discuss issues related to ethics, and that although it had not considered issues concerning food trade so far, it could do so if it received a specific request in this respect. The Representative of WHO drew the attention of the Committee to some recent World Health Assembly Resolutions on Global Strategies developed by WHO, in particular the Global Strategy on Diet, Physical Activity and Health, and suggested to consider ethics not only in trade but in relation to all relevant aspects of health. This view was supported by some observers.

65) Some delegations expressed the view that consideration of issues that went beyond the scope of the present code should not be considered as they were beyond the mandate of Codex, and that any broadening of the scope of the Code should be referred to the Commission for advice.

66) The Chairperson proposed to establish an electronic working group to consider the issues that should be included in the Code in order to facilitate further discussion and consensus. Some observers supported this proposal. However, several delegations expressed their objections to this proposal as it would not solve the basic issue of the need for the revision of the Code and proposed to suspend the revision work for 4 or 5 years.

67) Some delegations suggested that the Codex Secretariat, FAO or WHO could provide a record of how the Code of Ethics had been applied in practice, with or without success, in order to ascertain whether the present Code was of assistance to member countries. The Committee however noted that such information was not readily available, and that the conduct of specific surveys to obtain such data was not feasible with current resources. In reply to some questions, the Secretariat recalled that the Committee had initiated the revision of the Code in order to take into account the provisions of the WTO Trade Agreements and the work of the CCFICS, and to generally update other references in the Code.

68) The Delegation of New Zealand recalled the importance of addressing the problem of export of sub-standard food, which was a particular concern for countries which lacked effective food control systems. The Delegation proposed that issues related to export and import should be considered by the Committee on Food Import and Export Inspection and Certification Systems (CCFICS). This proposal was supported by several delegations.

69) Several delegations and observers expressed the view that the mandate of the CCFICS was too narrow to consider the Code of Ethics as the main focus of the Committee' work was on trade issues. The Delegation of Australia, as host country for CCFICS, pointed out that the mandate of the CCFICS encompassed the dual objective of Codex and that the proposal was not for CCFICS to take over the revision of the Code of Ethics, but that it could be requested to consider how it might address specific issues related to export and import concerns of countries without adequate food control systems. Some delegations proposed that any remaining issues to be addressed in the Code should be further considered in parallel by the Committee on General Principles. The Committee noted that the revision of the Code of Ethics was specifically entrusted to the CCGP by the Commission, while issues related to export and import were covered by the terms of reference of the CCFICS, and agreed that there were no procedural difficulties with the consideration of relevant issues by both Committees, in accordance with their respective terms of reference.

70) The Delegation of Switzerland expressed the view that the discussion had not addressed the questions referred by the Commission, that the comments received had not been discussed in detail, and that they should be referred to the CCFICS. The Chairperson indicated that the comments presented at the current session addressed specific questions from the Commission but that the CCFICS would discuss a different question referred by the Committee on General Principles, and that comments were available in working documents for the present session.

71) The Committee noted that the existence of a Code of Ethics in Codex had not been questioned during the discussion but that there was no consensus on whether the present Code should be revised or how it should be revised.

72) The Committee agreed to ask the CCFICS to consider whether it could provide recommendations to address the question of “the subsequent export of food, whether imported or produced domestically, that had been found to be unsafe or unsuitable or otherwise did not meet the safety standards of the exporting country”, within its terms of reference, and also consider whether further guidance could be provided to remedy the problems faced by countries with insufficient capacity to conduct import food control. The Committee requested the CCFICS to review, where necessary, the comments included in the working documents considered by the CCGP at the present session. It was noted that the Australian Secretariat to CCFICS would reproduce the comments presented to the present session as part of the working documents for CCFICS.

#### **Status of the Proposed Draft Revised Code of Ethics for International Trade in Foods**

73) The Committee agreed to suspend consideration of the Proposed Draft Revised Code of Ethics, currently at Steps 3/4, until its next session pending the reply from the CCFICS.