

codex alimentarius commission



FOOD AND AGRICULTURE
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Agenda Item 3 (d)

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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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PROPOSED DRAFT REVISION OF THE GUIDELINES FOR GENERIC OFFICIAL
CERTIFICATE FORMATS AND THE PRODUCTION AND ISSUANCE OF CERTIFICATES
(CAC/GL 38-2001)

(N05-2005)

At Step 3

(Prepared by the United States with the assistance of Argentina, Australia, Canada, European Community, France, Ghana, India, Iran, Ireland, Japan, New Zealand, and the Republic of Korea)

Governments and international organizations wishing to submit comments on the following subject matter are invited to do so **no later than 1 November 2005** to: Codex Australia, Australian Government Department of Agriculture Fisheries and Forestry GPO Box 858, Canberra ACT, 2601, Australia (fax: +61 2 6272 3103; E-mail codex.contact@daff.gov.au), with a copy to the Secretary, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, Via delle Terme di Caracalla, 00100 Rome, Italy (Fax No +39 06 5705 4593; E-mail: codex@fao.org).

BACKGROUND

1. The Codex Committee on Food Import and Export Inspection and Certification Systems previously developed, and the Codex Alimentarius adopted, the Codex *Guidelines for Generic Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001).
2. The Committee at its 13th Session (2004) considered a Discussion Paper on a proposed revision of the Codex *Guidelines for Generic Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001) prepared by the United States, with the assistance of an electronic Working Group (India, Iran, the European Community and the Philippines).
3. The Committee¹ generally supported the proposal to initiate new work on the revision of the *Guidelines* (CAC/GL 38-2001) and suggested that among other things the revised *Guidelines* (CAC/GL 38-2001) should be outcome-focused, principles-based and less prescriptive than the current ones; clearly separate between mandatory and marketing requirements; provide for flexibility to resolve difficulties related to specific attestations while ensuring food safety; and, should provide for reducing the number of certificates while maintaining the link between a specific consignment and a specific certificate.

¹ ALINORM 05/28/30, paras 103-109.

4. The Committee agreed to recommend to the Codex Alimentarius Commission the revision of the *Codex Guidelines for Generic Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001)² and prepared a Project Document which stated that the main aspects of the work would be to revise the guidelines to:

- Make them more appropriate and flexible;
- Clarify when export certificates should be issued by competent authorities to assure product safety, and ensure fair trade practices, or when attestations are more appropriately provided by commercial entities;
- Cover situations when national legislation does not authorize the specific attestations requested by importing countries and that a certain level of flexibility by importing and exporting countries may be necessary to resolve difficulties associated with these problems;
- Indicate when certificates could be considered redundant;
- Clarify the Guidelines regarding the application of an export certificate to the shipment of multiple lots of the same product providing that information required by importing countries is still conveyed;
- Clarify the Guidelines to indicate that requests for proprietary information should relate directly to the need for official certification and that, if such information is requested, adequate means to protect such information shall be employed; and
- Recognize that there should be harmonized attestations for similar certification needs to prevent misunderstanding and mistakes and to develop specific attestation examples for common types of certifications.

The project document also noted that the *Principles for Electronic Certification*, if adopted by the Commission, would be incorporated in the revision of the *Guidelines* (CAC/GL 38-2001). The Commission adopted the *Principles* at its 28th Session (2005) and agreed to attach the *Principles*, as an annex to the *Codex Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001).³ The *Principles for Electronic Certification* are included as an Annex to the revised text shown in the Appendix.

5. CCFICS, at its 13th Session (2004), reconstituted the working group to revise the Guidelines if the Commission approved new work on the item.

6. The Codex Alimentarius Commission, at its 28th Session (2005), approved new work to revise the *Codex Guidelines for Generic Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001)⁴.

7. Over the course of the past year, the Working Group has revised the existing *Guidelines* (CAC/GL 38-2001), which are provided as Appendix 1.

RECOMMENDATION

8. The Committee is invited to consider the attached proposed draft revision to the *Codex Guidelines for Generic Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001) with a view towards its further progression in the Codex Step Procedure.

² ALINORM 05/28/30, para. 109.

³ ALINORM 05/28/41, para. 48 and Appendix V.

⁴ ALINORM 05/28/41, para. 93 and Appendix VIII, Job Code N05-2005.

APPENDIX 1

**PROPOSED DRAFT REVISION TO THE
GUIDELINES FOR GENERIC OFFICIAL CERTIFICATE FORMATS
AND THE PRODUCTION AND ISSUANCE OF CERTIFICATES**

(CAC/GL 38-2001)

(N05-2005)

SECTION 1 – PREAMBLE

1. These guidelines recognize that importing country authorities may, as a condition for clearance of consignments, require importers to present certification issued by, or with the authority of, exporting country authorities. These guidelines are not intended to encourage or mandate use of such certification or in any way diminish the trade facilitatory role of commercial or other types of certificates, including third party certificates that are not issued by or with the authority of the exporting country. These guidelines are based on the presumption that the commercial parties engaged in international trade in food are responsible for complying with the regulatory requirements of the exporting and importing country.

SECTION 2 – OBJECTIVES AND SCOPE

2. These guidelines provide guidance to countries on the design, production, issuance and use of official and officially recognized certificates to attest that food presented for international trade has met requirements relating to food safety, economic fraud or deception, and, as appropriate, quality standards. Such certification serves to protect the health of consumers and to ensure fair practices in the food trade including the prevention of economic fraud or deception.

3. These Guidelines should be read in conjunction with the *Codex Guidelines for the Design, Operation, Assessment, and Accreditation of Food Import and Export Inspection and Certification Systems* (CAC/GL 26-1997), particularly Section 7, certification systems.

4. These Guidelines are also intended to clarify the attestations that are appropriately required from competent authorities and those that should be from commercial entities.

5. Hereafter, in these Guidelines, the term “official certificates” also applies to officially recognized certificates.

6. These guidelines do not deal with matters of animal and plant health unless directly related to food quality or safety. However, it is recognized that, in practice, a single certificate may contain information relevant to several matters (e.g. food safety and animal and plant health).

7. These guidelines are equally applicable to the use of paper or electronic forms of certification.

SECTION 3 - DEFINITIONS

Certificates are those paper or electronic documents, which describe and attest to attributes of consignments of food moving in international trade.

Certification is the procedure by which official certification bodies or officially recognized certification bodies provide written or equivalent assurance that foods or food control systems conform to requirements. Certification of food may be, as appropriate, based on a range of inspection activities which may include continuous on-line inspection, auditing of quality assurance systems, and examination of finished products.⁵

Official certificates are certificates issued by an official certification body of an exporting country, in accordance with the requirements of an importing or exporting country.

Officially recognized certificates are certificates issued by an officially recognized certification body of an exporting country, in accordance with the conditions of that recognition and in accordance with the requirements of an importing or exporting country.

⁵ *Principles for Food Import and Export Inspection and Certification* (CAC/GL 20-1995).

Certifying bodies are official certification bodies and officially recognized certification bodies⁶.

Certifying officers are employees of certifying bodies authorized to complete and issue certificates.

SECTION 4 - PRINCIPLES

8. The following principles apply to the production and issuance of certificates.
- Importing country competent authorities should only require certificates where declarations are necessary to provide essential information relating to food safety or suitability for consumption, or to facilitate fair 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.
 - Competent authorities of the importing country should communicate to the exporting country the rationale and requirements for certification in a consistent and transparent manner.
 - The requirements for certification should be implemented in a non-discriminatory manner.
 - Government agencies having jurisdiction shall take responsibility for any certificate they issue or authorize other certifying bodies to issue.
 - Multiple or redundant certificates should be avoided to the extent possible.
 - The use of certificates should be consistently implemented in a non-discriminatory manner.
 - Certificates should be designed and used in a manner that:
 - a. facilitates the importing country assessment that the product meets requirements in respect of food safety, suitability for consumption and the facilitation of fair trade in food;
 - b. simplifies and expedites the certification process;
 - c. clarifies the responsibility of all parties;
 - d. provides for accurate identification of the consignment being certified;
 - e. facilitates the importing country assessment of the validity of the certificate and minimizes the risk of fraud or misuse.
 - Requests for providing proprietary information should relate directly to the need to ensure product safety or prevent economic fraud or deception.

SECTION 5 – CERTIFICATION ROLES AND RESPONSIBILITIES

9. Certification of products moving in international trade may be appropriate when it is possible that such products, by their nature, may present a potential threat to public health (e.g. presence of microbial pathogens at levels sufficient to cause illness; presence of pesticide residues above established MRLs). Certification is also appropriate when experience has shown that there is the potential for economic fraud or deception to occur. Certifications with respect to the protection of public health and the prevention of economic fraud or deception should be the responsibility of government authorities.

10. Certification by government authorities is also appropriate with respect to product quality standards when such standards are authorized and implemented through mandatory or voluntary product grading programs.

⁶ Recognition of certification bodies is addressed under Section 8—Official Accreditation of the *Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems* (CAC/GL 26-1997).

11. Commercial/marketing requirements such as composition or formula specifications, specific product attributes or conformance to satisfying importer requirements should not be required in official certificates. In such instances, it is appropriate for certification to occur by non-governmental bodies (e.g. by exporters, by third party/commercial bodies that are not officially recognized).

12. It may be the case that national legislation does not authorize an exporting country certifying body to issue the certification required by the importing country. In such instances, the importing country should provide flexibility to allow such certification by alternative means so long as the safety of the food is not jeopardized and economic fraud is avoided.

SECTION 6 – PRACTICAL CONSIDERATIONS RELATED TO OFFICIAL CERTIFICATES

13. Requests for certification should minimize to the extent possible the need for redundant or duplicative certificates. Such situations could include the following: when multiple certificates with similar attestations are required by different agencies within an importing country; when multiple certificates are required for different attributes when a single attestation would suffice; when multiple certificates with similar attestations are required from different certifiers within the exporting country.

14. In instances when the food is not subject to changes in the level of a hazard for which certification is required and not subject to compositional change, it can be appropriate to permit the use of a certificate to certify multiple shipments of different lots of the same product. Such multiple lot certification should have a fixed duration (e.g. six months) and provision should be made to identify the specific lot(s) shipped in any single shipment.

15. In instances where certification requests relate to providing proprietary information, such requests should relate directly to the need to ensure product safety or prevent economic fraud or deception. If such information is requested, adequate means to protect the proprietary nature of such information shall be employed and communicated to the exporter.

16. The inclusion of commercial information such as contract numbers and bank arrangements should be avoided on official certificates. Where this is not practical, commercial information should only be added in a clearly defined area. The information should be placed under a heading clearly identifying the information as unofficial commercial information. This information need not be officially verified. Information regarding animal health, sanitary controls or any other information regarding the status, quality or quantity of the product itself should not be entered under this heading.

SECTION 7 – CERTIFICATE ELEMENTS

STANDARD FORMAT

17. To the extent practicable, a standard format should be employed for certificates. Certificates should:

- Clearly identify the certifying body.
- Be designed so as to minimize the risk of fraud including a unique identification number and other appropriate means to ensure security (for example, use of watermark paper, or other security measures for paper certificates; use of secure lines and systems for electronic certificates.)
- Clearly describe the commodity and consignment to which it uniquely relates.
- Contain a clear reference to any requirements to which the certified product is required to conform.
- Contain a declaration by the official, or officially recognized certification body which relates to the consignment described on that certificate.
- Be in a language or languages fully understood by the certifying officer in the exporting country and receiving authority in the importing country or countries.

DETAILS OF THE CONSIGNMENT

18. The details⁷ of the product being certified should be clearly documented on the certificate, which should at least contain the following information:

- nature of the food⁸;
- name of product;
- quantity, in the appropriate units;
- a description of the commodity and consignment to which the certificate uniquely relates, e.g. lot identifier, security seal number(s) or date coding;
- identity and, as appropriate, the location of the production establishment;
- name and contact details of the exporter or consignor;
- name and contact details of the importer or consignee;
- country of dispatch; and
- country of destination.

Certificates may also contain information on relevant transport and handling requirements relevant to food safety, deception and economic fraud. This may include appropriate temperature controls.

ATTESTATIONS

19. The particular attestations to be included in a certificate will be determined by the requirements of the importing or exporting country. They should be clearly identified in the text of the certificate. Such attestations may include, but are not limited to:

- health status as it may affect the safety of the 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.

To the extent possible, common attestation language should be used for similar attestations.

STATEMENT OF ORIGIN IN CASES OF IMMEDIATE HEALTH CONCERNS

20. Where, in exceptional cases justified by immediate public health concern, the importing country requires a statement as to the origin of ingredients in a product, the certificate should specify the origin of ingredients sourced outside the exporting country. Such situations should be used for a limited period of time. When the exporting country has managed the risk based on science and the measures implemented to address the hazard are to the satisfaction of the importing country, the use of these statements should be discontinued.

SECTION 8 – ISSUANCE AND USE OF CERTIFICATES

21. Certificates should be issued prior to the consignment, to which the certificate relates, leaving the control of the certifying body. Certificates may be issued while consignments are in transit to the country of destination only when appropriate systems of control are in place in the exporting country to support this practice and the practice is agreed upon by the importing country.

⁷ (NOTE: These details are not specific to food, as they constitute the normal field of information contained in any Bill of Lading for transport vessels carrying product between countries. The shipping data on the official certification documentation provides a means of verifying details about the product.)

⁸ The World Custom Organization classification should be used when possible.

RESPONSIBILITIES OF THE CERTIFYING BODY AND CERTIFYING OFFICERS

22. In addition to the provisions of the *Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems* (CAC/GL 26-1997), the following specific provisions apply.

23. The certifying body should:

- Be designated and adequately empowered by national legislation or regulation in a transparent manner to provide the particular attestations required in an official certificate. Such designation/empowerment should be recognized as sufficient by governments, alleviating requirements for further identity or authority; upon request, indication of the official empowerment shall be transmitted to the importing country upon request.
- Ensure that their procedures allow for the issue of the official certificate in a timely manner so as to avoid unnecessary disruptions to trade
- Have in place an effective system to prevent, to the extent practicable, the fraudulent use of official certificates.

24. The certifying officer should:

- be appropriately designated by the certifying body;
- have no conflict of interest in the commercial aspects of the consignment and be independent from the commercial parties;
- be fully conversant with the requirements to which they are attesting;
- have access to a copy of regulations or requirements that are referred to on the certificate or clear information and guidance notes issued by the certifying body or competent authority explaining the criteria that the product must meet before being certified;
- only certify matters which are within their own knowledge (or which have been separately attested to by another competent party); and
- only certify in respect of the circumstances known at the time of signing the document including conformity with production requirements and any other specified requirements between production and date of certification.

USE OF PAPER CERTIFICATES

25. Paper certificates should be issued and presented to the exporter or their agent, as the original certificate.

26. A copy of the original certificate (clearly marked as such) should be kept by the certifying body in the exporting country and be provided to the authority having jurisdiction in the importing country, on request.

27. When signing a paper certificate, the certifying officer should ensure that:

- the certificate contains no deletions other than those required by the text of the certificate;
- any alterations of the certified information are initialed or otherwise approved by the certifying body;
- for multiple page certificates, it is clear that the pages constitute a single certificate (e.g. each page is numbered with the respective unique certificate number so as to indicate it is a particular page in a finite sequence);
- the certificate bears the signature, name and official position of the certifying officer;
- the certificate bears the date expressed unambiguously on which the certificate was signed and issued and, where appropriate, the time for which the certificate will remain valid;
- upon signature by the certifying officer, no portion of the certificate is left blank in a manner that would allow it to be amended.

USE OF ELECTRONIC CERTIFICATES

28. The use of electronic means for the issue or transfer of official certificates should comply with the *Principles for Electronic Certification* (see Annex 1). A hard copy form of an electronic official certificate should be made available by the issuing authority on request of the importing country's authorities.

29. The exporter or their agent should be notified when an electronic certificate has been authorized for a consignment.

PRESENTATION OF ORIGINAL CERTIFICATES

30. The importer or consignee is responsible for ensuring that the product is presented to the importing country's authorities with the original certificate in accordance with the importing country's requirements. In the case of electronic certificates the consignee should supply the importing country authority with sufficient details concerning the consignment to allow the identity of goods to be established against the details contained in the certificate.

REPLACEMENT CERTIFICATES

31. Where, for any good and sufficient reason (such as loss of or damage to the certificate in transit, or correction of details), a replacement certificate is issued by the certifying officer it must be clearly marked "REPLACEMENT", or "IN LIEU OF", before being issued. A replacement certificate should reference the number of the original certificate that it supersedes and the date the original was signed, and should have the same content as the original. Where possible, the original certificate should be returned to the issuing authority.

REVOCAION OF A CERTIFICATE

32. When for good and sufficient reason there is cause to revoke a certificate, the certifying body should revoke the original certificate as soon as possible and notify the exporter or their agent in hard copy or by electronic means of the revocation. The notice should reference the number of the original certificate to which the revocation refers and provide all particulars regarding the consignment and the reason(s) for the revocation. A copy of the revocation should be provided to the appropriate food control authority of the importing country if the export of the consignment has occurred. An electronic notification should be made to the control authority of the importing country for those countries using electronic certification.

PRINCIPLES FOR ELECTRONIC CERTIFICATION⁹

Objective

1. This document elaborates the Section on the “Use of Electronic Certificates (see paragraph 28) in relation to the principles for production, transfer and acceptance of electronic certificates. These principles are intended to provide guidance for competent authorities where export certification is exchanged electronically.

Definitions

2. See Section 3 “Definitions”.

Principles for Electronic Certification

3. Where export certification is exchanged electronically between the competent authorities of the exporting and importing countries the system should:

- Comply with the principles of the *Codex Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38 - 2001);
- Consider data elements and message structure such as those set/ratified by the United Nations Centre of Trade Facilitation and Electronic Commerce for electronic certification exchanged between government border authorities (refer ISO/UNTDED¹⁰). The importing and exporting countries will need to agree on the data elements to be exchanged and on the standardized conversion fields that allow each country to send and receive data according to its preferred standard;
- Assure integrity of the certification system during the exchange of electronic data to protect against fraud, infection from viruses and other malicious software and maintain system integrity. Examples of such security measures which may be considered include:
 - digital authentication certificates;
 - encryption;
 - controlled and audited access;
 - firewalls;
 - any other specifically developed security measures.
- Include a mechanism to control and protect system access against unauthorized entry. This will require the competent authorities of both the exporting and importing countries to agree on access rights, including officials authorized to access the system;
- Take into account the limitations of infrastructure and capabilities of developing countries; and
- Include a contingency plan to ensure disruption to trade is minimal in the event of system failure.

⁹ Adopted by the 28th Session of the Codex Alimentarius Commission, July 2005, see ALINORM 05/28/41, para. 48 and Appendix V.

¹⁰ The UNTDED (United Nations Trade Data Elements Directory) contains descriptions of all elements by number and short description plus attributes (www.unece.org/etrades/codesindex.htm). As an example, DE1004 is a "Document/Message Number". A similar identification in X12 is 324 "Purchase Order Number".