

codex alimentarius commission



FOOD AND AGRICULTURE
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Agenda Item 5

CX/FICS 05/14/8
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

DISCUSSION PAPER ON THE DEVELOPMENT OF AN APPENDIX ON “INFORMATION RELATING TO THE NEED FOR TECHNICAL ASSISTANCE AND COOPERATION BETWEEN THE IMPORTING COUNTRIES TO EXPORTING COUNTRIES” TO THE CODEX GUIDELINES ON THE JUDGEMENT OF EQUIVALENCE OF SANITARY MEASURES ASSOCIATED WITH FOOD INSPECTION AND CERTIFICATION

(Prepared by the United States)

BACKGROUND

1. The Codex Committee on Food Inspection and Certification Systems (CCFICS), at its 12th Session, recommended that new work be undertaken on “Proposed Draft Appendices to the *Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification* (CAC/GL-53-2003)¹. The Committee’s project document included, as one aspect of work, “Information relating to technical assistance to be provided by importing countries to exporting countries”.

2. CCFICS, at its 13th Session, considered a Discussion Paper², *Proposed Draft Appendices to the Guidelines on the Judgment of Equivalence of Sanitary Measures Associated with Food Inspection and Certification* (CAC/GL 53-2003), that included, under work item 6, a scope of work for development of an appendix on “Information relating to technical assistance to be provided by importing countries to exporting countries”.

3. The Committee had a discussion on the appropriateness of undertaking development of this appendix³. While some Delegations questioned whether development of an appendix on technical assistance fell within the mandate of Codex and such work should more appropriately be undertaken by FAO/WHO, other delegations noted the importance of undertaking such work.

4. The Committee noted the comments of the Codex Executive Committee (CCEXEC), arising from CCEXEC’s consideration of CCFICS’s Project Document, regarding technical assistance. The Report of the 54th Session of CCEXEC states the following:⁴

¹ ALINORM 04/27/30, para. 88(a).

² CX/FICS 04/13/3

³ ALINORM 05/28/30, paras 5-22.

⁴ ALINORM 04/27/4, paras. 18-19.

“The Committee had an exchange of views on the inclusion of “information relating to technical assistance to be provided by importing countries to exporting countries” in the “aspects to be covered” by the Appendices. It was pointed out that matters related to technical assistance were not covered in Codex texts, as they were the responsibility of FAO and WHO. It was however noted that this was an essential issue for developing countries and that other Codex texts on inspection and certification included general references to the need for technical assistance and cooperation between the importing and exporting countries.

The committee therefore recommended rewording paragraph 3) of the Project Document in order to make it more consistent with other Codex texts in this area and recommended approval as new work.”

5. Based on its discussion, CCFICS agreed that work on the development of an appendix on “Information relating to technical assistance to be provided by importing countries to exporting countries” should be deferred until completion of work on certain of the other appendices.⁵ Additionally the Committee “agreed that the Delegation of the United States would prepare a discussion paper based on the recommendations of the Executive Committee and the need for technical assistance and cooperation referenced in other Codex texts on inspection and certification with a view to identifying which requirements could be developed by the Committee in this regard for consideration at its next session.”⁶

6. In preparing this discussion paper, the on-going work of the World Trade Organization (WTO) Committee on Sanitary and Phytosanitary Measures in the area of practical implementation of Article 4 of the WTO SPS Agreement (Equivalence), including means to facilitate provision of technical assistance to developing countries to assist with implementation of Article 4, was taken into account.

Consideration of Technical Assistance and Cooperation in Codex Texts on Inspection and Certification

7. There is limited reference to technical assistance and cooperation in other Codex texts on food import and export inspection and certification.

8. Section 3 (Principles) of the *Codex Principles for Food Import and Export Inspection and Certification* (CAC/GL 20-1995, para. 18) states, under the heading “Special and differential treatment” that “in the design and application of food inspection and certification systems, importing countries should take into account of (*sic*) the capabilities of developing countries to provide the necessary safeguards.”

9. The *Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems* (CAC/GL 53-2003, para 7(n)) states, under “General Principles for the Determination of Equivalence”, that “an importing country should give positive consideration to a request by an exporting developing country for appropriate technical assistance that would facilitate the successful completion of an equivalency determination.”

10. The *Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems* (CAC/GL 34-1999, para 20) states under Section 5 (“Considerations Before Entering into Bilateral or Multilateral Discussions”) the following: “Countries that are not yet ready to enter into equivalence agreements may wish to work jointly towards development of such agreements. Amongst other things, information exchange, joint training, technical cooperation, and the development of infrastructure and food control systems can serve as the building blocks towards the later development of agreements. An importing developed country should consider providing technical assistance to exporting developing countries to establish systems that enable food exports to meet importing country requirements and facilitate the development of equivalence agreements.”

⁵ ALINORM 05/28/30, para 24.

⁶ ALINORM 05/28/30, para. 25.

11. It should also be noted that the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* contains Article 9, *Technical Assistance*, which states that WTO Members have agreed to facilitate provision of technical assistance to other Members, especially to developing country Members.⁷

Technical Assistance with Respect to Equivalence Determinations

12. It is clear from the statements regarding technical assistance in Codex texts relating to food import and export inspection and certification that it is the intent that member countries having the ability and resources to do so should provide technical assistance to other members, particularly developing country members, to facilitate determinations of equivalence.

13. In relationship to equivalence, it would seem appropriate for CCFICS to provide guidance on the specific nature of technical assistance that might be appropriate for member countries to provide to other member countries in undertaking determinations of equivalence. Broader technical assistance needs including enhancements to infrastructure (e.g. regulatory control systems, food production/processing capabilities) are outside the scope of such guidance and are better handled by FAO/WHO, international development banks, national technical assistance agencies and other donor organizations⁸.

14. In regards to guidance that CCFICS might wish to provide with respect to technical assistance in relationship to equivalence determinations, the Committee may wish to note and agree to the following.

- It will be most often the case that technical assistance will be provided by an importing country, usually a developed country, to an exporting country, usually a developing country.
- The purpose of technical assistance is to enable a developing exporting country to become positioned to undertake an equivalence evaluation.
- Technical assistance may be provided by a developed importing country to a developing exporting country within the means and capabilities of the developed importing country. However, it is also recognized that a developing country with previous experience with equivalence determinations may be positioned to provide technical assistance to another developing country.
- Technical assistance is not a mandatory pre-requisite by either party in undertaking a determination of equivalence.
- Appropriate areas for technical assistance associated with an equivalence determination could include: assistance in evaluating which measures would be the subject of an equivalence determination; assistance with the preparation of documentation; undertaking necessary risk assessments; assistance with data analysis; and assistance in assessing whether measures meet the importing country's stated objective basis of comparison.

⁷ Article 9, *Technical Assistance*,

1. *Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations, and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.*
2. *Where substantial investments are required in order for an exporting developing country Member to fulfill the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.*

⁸ Recognizing that enhancement to food safety infrastructure is also a priority for developing countries for purposes of equivalence determinations and for many other reasons (e.g. better control of imported food, improved domestic public health protection), countries may wish to urge FAO/WHO, in cooperation with other relevant international organizations such as WTO, to enhance their leadership role in coordinating and providing food safety technical assistance.

- It would not normally be expected that the governmental body responsible for evaluating the exporting country's equivalence proposal would provide technical assistance relating to broad infrastructure (e.g. improvements to food regulatory control systems, improvements to food production/processing systems).⁹
- The request for technical assistance should normally come from the exporting country, usually a developing country, to the importing country, usually but not always, a developed country, as part of the initial request for an equivalence determination.

RECOMMENDATION

The Committee may wish to consider whether the above points of guidance on technical assistance associated with determinations of equivalence be included within an existing Codex text on food import and export inspection and certification (e.g. as an Annex to the *Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems* or as a footnote to Principle 7(n) of this same document).

⁹ Developing countries may, however, in their consideration of undertaking an equivalence determination, recognize the need for broad infrastructure enhancements and seek technical assistance to undertake such enhancements from other entities (e.g. national technical assistance agencies, international development banks, etc.)