

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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Agenda Item 4

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS

Ninth Session
Perth, Australia, 11 – 15 December 2000

COMMENTS ON THE PROPOSED DRAFT GUIDELINES FOR FOOD IMPORT CONTROL SYSTEMS

CANADA

Section 1

Paragraph 1

In the first sentence, Canada suggests to add the underlined text: “...*of an import control system to protect the health of consumers and facilitate fair practices...*” This is consistent with the decisions at the 8th Session. Alternatively, in line with the Codex Procedural Manual, 11th edition, Criteria for the Establishment of Work Priorities (page 66), the sentence could read: “...*of an import control system to protect consumers (from the point of view of health and fraudulent practices) and facilitate fair practices*...”.

Section 3.1 Requirements for imported food that are equivalent with requirements for domestic food

In this heading to this section, the word “equivalent” should be replaced with “consistent”, as per the first bullet under paragraph 2.

Paragraph 5

Canada suggests to modify the latter part of the first sentence, and the beginning of the 2nd sentence as follows: “... *of a pesticide or veterinary drug because use of that chemical is not permitted in the importing country. This may be for reasons other than ...”.*

The word “prohibited” implies a specific legislative ban whereas, for many countries, a positive listing is used for permitted agricultural chemicals and veterinary drugs.

The word “tolerance” should be replaced by “Maximum Residue Level” or “M.R.L.” with the exception of the reference to zero tolerance in the 1st sentence.

We suggest to modify the 3rd sentence as follows: *“In these cases, an M.R.L. could be established while still protecting human health.”*

Finally, Canada suggests, in the 2nd to last sentence, to replace “or”, with “and/or”. The sentence should read: *“...on the basis of a risk assessment process, and/or on the basis of relevant Codex standards,”*

Section 3.3

Paragraph 10 - 8th bullet

Canada suggests to add the underlined text:

- accept, refuse entry to, detain, destroy, order reconditioning or re-export consignments,

Section 3.6 Consistent national implementation

This title, or the 6th bullet under paragraph 2, should be changed so that the two are consistent.

Section 4.2

Paragraph 22 - 3rd bullet

Canada suggests to add the underlined text:

- consignment details (including commodity description, amount, ...)

Section 4.5

Paragraph 29 - 1st bullet

Clarification is needed as to the meaning of free entry. Does this refer to a decision not to inspect an incoming consignment? Or does it mean that no specific requirements apply to the consignment?

Section 4.7

Paragraph 33

Canada suggests an additional sentence to clearly indicate that, under conditions of limited access to sophisticated facilities, certification agreements with exporting countries do not require more stringent controls than can be achieved at a domestic level.

“Attestations requested of the certification body in the exporting country should be no more stringent than the food control outcomes that can be achieved by the importing country for like domestic products.”

Section 4.8

Paragraph 34

Canada suggest to modify the 1st sentence as follows: *“...information exchange between competent authorities of countries that...”*.

CZECH REPUBLIC

2 Definitions:

- We suggest to include definition of risk management and risk communication
Reason: we suggest to include these terms into paragraph 31 (dealing with emergencies).

3 General characteristics of food import control systems

- Paragraph 2, 4th bullet – after “priority focus on the health protection of consumers“ we suggest to add and fair trading elements
Reason: this term is stated in paragraph 12 as a priority.

3.1 Requirements for imported food ...

- After paragraph 4 we suggest to insert a new paragraph in the following wording:
Where domestic requirements for labelling and quality exist, these requirements should be applied also for imported food.
Reason: labelling and quality are essentials of fair trading elements mentioned in paragraph 12.

3.3 Clearly defined and transparent ...

- Within the whole part 3.3 we suggest to delete „/regulations“ and let only legislation.
Reason: it is clear from definitions that “legislation” “ includes also regulations.
Paragraph 10, bullet 8 “accept, refuse entry, ...” - after word “destroy“ we suggest to insert words or order to destroy
Reason: control authority should have the power not only to destroy but also to order to destroy certain foodstuffs.
 - Paragraph 10, we suggest to add a new bullet wording: recall food already in distribution at any point of circulation
Reason: in our opinion this power is appropriate.

4.4 Sampling and analysis

- Paragraph 28 - we suggest insert after the word “include” in the last sentence
“Procedures may include preliminary, corrective measures, further testing ...”
Reason: it could be useful for further testing to take preliminary or corrective measures.

4.6 Dealing with emergencies

- Paragraph 31 – after the last sentence we suggest to add sentence The procedure should include the rules for risk management and risk communication.
Reason: in case like that (mentioned in para 31) it seems to be useful to have also procedure that can be covered by both terms stated here.

4.8 Information exchange

- Paragraph 34 – we suggest to add another bullet or to complete the text of the 1st bullet with words and food legislation.
Reason: food requirements are significant information that should be mentioned

INDIA

Under Clause Reference 3.1, Point No. 4. The first sentence should be modified as follows:

“Where domestic requirements includes process control such as good Manufacturing practices, compliance may be determined by auditing the Quality Assurance System and Procedures, auditing of facilities may be considered if required.”

Under Clause Reference 3.1, Point No. 5. The following may be added before the last sentence:

In case tolerance provided for residues is more stringent than Codex Standards then importing country should be willing to part with the Justification along with risk analysis information.

Under Clause 3.3, Point No. 10. The last bullet to be modified as follows:

Develop certification arrangements such as mutual recognition agreements based on principle of equivalence with the Competent Authority of the exporting country.

Under Clause 3.5, Point No. 13. In the last sentence it is indicated that importing country can recognize the food control system applied by exporting countries. Such recognition as appropriate includes controls applied during the production, Manufactured, importation, processing storage, transportation and distribution of the food products. As the exporting country does not have control over the importation and distribution of the food products therefore these may be deleted from the above para in the last sentence.

Under Clause 4.3, Point No. 23. In relation to the history of conformance as mentioned in Point No. 23 the following to be added as an additional bullet in the list of factors to be accounted for control.

“Past history of any health hazard.”

Under Clause 4.3, Point No. 24. The last sentence should be modified as follows

The frequency of sampling should be proportionate to the assessed risk which may take into account the past history, evidence of, or conformed non-conformity for a particular product, processor, importer or country.

Under Clause 4.5, Point No. 30. The first sentence to be modified as under

The system should include formal means to communicate decisions about methods of sampling, inspection, testing method followed and results of sampling, clearance and status of shipment.

The last sentence on appeal mechanism/review of rejection of consignments should be a separate point and should be elaborated as follows:

There should be an appeal mechanism or review of rejections of consignments and clear time frames for the same should be specified. The basis of decisions at the importing end alongwith the methods of sampling, inspection and tests should be informed to the exporter and the exporter should be given a chance to get the product resampled, inspected and tested in a laboratory recognised by the importing country.

Under Clause 4.9. The last line of the para to be modified as under:

Where recognition is given to the control system of an exporting country, an audit of the systems of the exporting country may be required rather than routine inspections?

Under Clause 4.10, Point No. 40. The additional bullet point as follows to be included:

“Method of sampling, inspection and testing”

NEW ZEALAND

General Comment

New Zealand is generally supportive of this document, but recognises that much of the material is presented elsewhere in Codex. It is important that any draft guidelines bringing this material together be comprehensive and accurate.

Specific Comment

Definitions: Certification - The second sentence should be deleted. The Committee agreed at its 8th Session to delete this sentence because it is a description not a definition (ALINORM 01/30 paragraph 14 refers).

Section 3: Paragraph 2 - The use of the word "consistent" (first and last bullet points) is problematic in this context. The current wording could be interpreted as being "the same as", when in fact different requirements could be used as long as they were equivalent in delivering the importing country's appropriate level of protection.

Section 3.1: The section needs considerably more development. This is a complex area and the principles that are put forward and the language used needs to be consistent with that used elsewhere in Codex documents (and the SPS Agreement). The way in which examples are use in this section also needs further consideration.

In particular, **Paragraph 3** needs to clarify how requirements should be "applied equally". The intent of the second sentence also needs to be more simply expressed. If requirements are to be outcome-based then this should be clearly stated, and examples provided.

Paragraph 5 - needs to clarify that it may be appropriate for an importing country to consider a tolerance levels for residues when such pesticides or veterinary drugs currently have a zero tolerance for **other than** consumer health reasons. The last sentence should be deleted. If the importing country has identified that the use of the particular pesticide or veterinary drug raises occupational health and safety concerns for their citizens or that there is no technical justification for its use in their country they have already made their decision about its domestic use and this last sentence therefore seem inappropriate.

Section 3.2: This section should also take into account the material being developed by this Committee in respect of the utilization of quality assurance systems (Agenda item CX/FICS 00/5 refers).

Section 3.3: Paragraph 10 – bullet point 7 - This may be interpreted as a need for official inspection authorities to have a greater role in accreditation than is needed. We suggest the point should read “recognise accredited laboratories or accredit laboratories”;

Paragraph 10 – bullet point 10 - This may be interpreted as holding a financial sum over consignments. We believe the intention is to retain the product and therefore suggest that the point be reworded to read "retain control over consignments ..."

Section 4.1: Paragraph 18 - We suggest this paragraph be deleted. The intent is unclear as it stands and the point would appear to be covered by paragraph 16.

Section 4.3: This section does not clearly differentiate between implementation of different principles relating to frequency and type of inspection. For example, performance-based inspection is generally reliant on historical performance rather than risk, whereas risk-based inspection is generally reliant on the likelihood of hazards with severe consequences being present in the food.

Also the Committee agreed at its last meeting to several specific text changes to the list that is now contained in **Paragraph 23**. These changes do not appear to be fully reflected in the current wording. In particular, 'target consumer group' should read 'affected consumer group' and the three new suggested points are not fully captured. We also suggest that as currently drafted the word "Risk" should be replaced with another term such as "likelihood" in the **second bullet point**.

Section 4.8: Paragraph 34 – bullet point 4 – This point should reference the existing Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Foods.

Section 4.9: This section should also take into account the material being developed by this Committee in respect of the utilization of quality assurance systems (Agenda item CX/FICS 00/5 refers).

Section 4.11: Paragraph 43: We suggested that the words "expected of" should be deleted and replaced with the words "appropriate for".

REPUBLIC OF KOREA

Section 3.1: The term "equivalent" in the title of 'Requirement for imported food that are equivalent with requirement for domestic food' would be changed into "consistent" in order to use consistently the same term of paragraph 2.

Paragraph 8: We recognize that third party as officially recognized inspection and certification body provide the inspection service of imported food. To promote the credibility of third party's function, we believe that level of its performance and qualification should be assessed regularly by competent authority. So we would like to amend paragraph 8 like this :

Where the competent authority of an importing country use third party providers as officially recognized inspection and /or certification bodies to implement controls such arrangement should be conducted in the manner discussed in CAC/GL 26-1997, Section 8, Official Accreditation. ***In such case third party providers have no direct commercial interest in imported food. In addition the performance of officially accredited inspection or certification bodies should be regularly assessed by the competent authority.*** The function

Paragraph 11: We believe the legal framework for controls on imported food should make it valid enough to protect human health. Considering above aspect, the recognition of self-checking by importers can make such concerns as misuse of requirement and non-official inspection of imported food. We think that this practice can be implemented by applying the officially accredited inspection services. We consider this provision should be deleted.

Section 3.6: The term “consistent” in the title of ‘consistent national implementation’ would be replaced with “uniform ” to refer the same term of paragraph 2 consistently.

Paragraph 32: With respect to the fifth bullet we consider the verification by importing country includes end-product analysis such as post-port control and physical checks and as appropriate, on site inspection to confirm sanitation controls such as process control and surveillance for export food conducted by exporting country. The fifth bullet should be read as follows.

- conduct verification procedures for example, occasional random sampling, analysis of products upon arrival *and on site verification* .

In addition we consider that this provision of sixth bullet means that importing country avoids issuing documentation or certificates as appropriate. This performance depends on the contents of consultation, discussing bilateral arrangements between two parties. We believe that it needs not to limit the control performance in advance. We would like to refer this sentence should be deleted.

Paragraph 35: We have notified new or amended sanitary measure to WTO secretariat. We think this level is enough to inform to interested parties of sanitary requirement and to prevent trade-adverse-effect. We would like to propose that “trading partner” in paragraph 35 would be replaced with WTO secretariat, or paragraph 35 should be deleted.

Paragraph 36: We consider that as the control of supplier by importer is a commercial deal condition between interested parties and it is not easy for competent authority to identify and assess their control, this paragraph should be deleted.

TURKEY

In draft at **paragraph 5 line 6** this can be added “importing country can take into account the result of risk assessment of exporting country in the case the exporting country is one of the most important producer of that foodstuff”. For example Turkey is considerable producer of raisins if its limits of Turkey is not accepted this can cause unfair trade of course these limits should be the result of scientific based risk assessment studies.

Turkey accept the draft and support health protection of consumers and fair trade elements in this frame it would make some points clearer if statements related with the labelling of Genetically Modified Foods are included in this draft.

UNITED STATES

General Comments

The United States is pleased with the progress made in revising this Proposed Draft Code. The revisions take into account the discussion on the document at the 8th Session of CCFICS, including the efforts of a drafting group convened during the Session. The United States recommends the advancement of the Proposed Draft Guidelines in the Codex Step procedure and believes it will be a very useful document that will assist countries in protecting public health while facilitating trade.

Specific Comments

1 - SCOPE

The United States believes it would be helpful, in the Scope section, to call attention to the more detailed information presented in the FAO and WHO manuals that are referenced in the section on Further Information. We would suggest adding the following sentence to the end of the Scope section: “Attention is called to additional information on food import control provided in Section 5, Further Information.”

2 - GENERAL CHARACTERISTICS OF FOOD IMPORT CONTROL SYSTEMS

Paragraph 2, first bullet. The United States suggests that the fourth bullet dealing with the priority for human health should be moved up and become the first bulleted point.

Paragraph 3. In the first sentence, change “domestic” to “domestically”. Additionally, for clarity the United States suggests a rewording of the second sentence to the following: “These requirements may be expressed quantitatively as end-point limits or standards and have corollary requirements for sampling, or provisions concerning process controls, or a combination of these.

Paragraph 4. second line: change “practice” to “practices”.

Paragraph 5. A rewrite of the first sentence is suggested, as follows: “A special case may arise in the application of requirements to imported versus domestic food where an importing country applies a zero tolerance...prohibited in the importing country. Additionally, the United states believes the third sentence of this paragraph (“ In these cases a tolerance...consumer health) can be deleted and its concept incorporated into a rewritten fourth sentence as follows: “In such circumstances it would be appropriate for the importing country, on the basis of a risk assessment process or on the basis of relevant Codex standards, to provide an appropriate MRL for the chemical in imported foods focussed on the human health risk posed by the chemical residues in food. The entire rewritten sentence would then read as follows.

“A special case may arise in the application of requirements to imported versus domestic food where an importing country applies a zero tolerance for residues of a pesticide or veterinary drug because use of that chemical is prohibited in the importing country. The chemical may be prohibited for reasons other than consumer health, for example occupational health and safety reasons, or because there is no technical need in the importing country. In such circumstances it would

be appropriate for the importing country, on the basis of a risk assessment process or on the basis of relevant Codex standards, to provide an appropriate MRL for the chemical in imported foods focussed on the human health risk posed by the chemical residues in food.”

Paragraph 9. First sentence. To emphasize the need for transparency, the United States recommends that the first sentence be reworded as follows: “Clearly defined and transparent legislation and regulation should provide the basis and authority for operating a food import control system.”

Paragraph 10, 5th bullet: insert “the” before “risk”.

Section 3.4. Priority focus on the health protection of consumers. The United States recommends that this section be moved forward to the first paragraph Section 3 to emphasize the importance of health protection.

3 – IMPLEMENTATION OF THE CONTROL SYSTEM

Paragraph 16. The United States recommends adding the words “and quality” after “food safety” at the end of sentence 2. Undue delays can effect both safety and quality.

Paragraph 23. Second bullet. The United States suggests that a preferable wording for this bullet would be: “Compliance history of product or importer (e.g., the risk of non-compliance).”

Paragraph 28. The United States believes that the term “carefully interpreted” may too vague to provide adequate guidance. The United States suggests that better language to use may be the following: “Decisions relating to the rejection of a consignment as a result of inspection and/or laboratory analysis should be based on risk assessment. The import control program should include procedures to apply when results are borderline, or sampling indicates that only some lots within the consignment comply with requirements. These procedures may include further testing and examination of previous compliance history, and appeal mechanisms.”

Section 4.6. Dealing with emergencies. The United States suggests that reference be made in this section to the Codex *Guidelines for the Exchange of Information in Food Control Emergency Situations* (CAC/GL 19-1995).

Section 4.7. Recognition of export controls. The United States suggests that consideration be given to including a reference to the CCFICS document *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates*, recognizing that this document is under development by the Committee. The added statement would indicate that where export certificates are utilized, their use and format should be consistent with the Codex guideline document.

Section 4.8. Information exchange. Paragraph 34, 4th bullet: The United States suggests that a footnoted reference be made to the Codex *Guidelines for the Exchange of Information Between Countries on Rejections of Imported Food* (CAC/GL 25-1997).