

codex alimentarius commission

FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD HEALTH
ORGANIZATION

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Agenda Item 7

CX/GP 00/8-Add.1

JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON GENERAL PRINCIPLES

Fifteenth Session

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REVISION OF THE CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD

COMMENTS RECEIVED IN REPLY TO CL 1999/19-GP

(Australia, Brazil, Canada, Egypt, Guyana, United States, Consumers International, ENCA, IBFAN)

AUSTRALIA

A. General Comments

The utility of the Codex to its intended beneficiaries will depend equally on the extent to which it is followed and the Codex food standards (concerning inter alia product names) underlying the Code; any diminution of standards will reduce the utility of the Code. It is important that in undertaking a revision of the Code consistency is maintained with the trading framework as set out in the WTO Agreement on Sanitary and Phytosanitary Measures, and the Agreement on Technical Barriers to Trade.

[Because of its content the Codex Code of Ethics is ideally one which should be revised by CCFICS. The revision should take into account the content of other CCFICS documents that have a bearing on the Code.

Note: The CAC recommended that the revision of the Code of Ethics is undertaken by CCGP. If considered necessary the proposed revised draft Code could be referred to CCFICS for comment.]

Clause 3 of the Preamble rightly notes that low income consumers, in particular, require protection from unfair trade practices. Retaining the important provisions of Codex commodity standards is essential of these standards are to offer genuine assurance to consumers worldwide. This is particularly the case with the definition of what constitutes the accurate (and therefore acceptable) use of a product name, eg fruit juice, chocolate, jam.

B Identified Concern with Current Wording of Code

1. Clause 4.2 (a) Article 4 - General Principles

Issue

Clause 4.2 states "Subject to the provisions of Article 5 below, no food should be in international trade which:

- (a) has in or on it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health; ..."

Article 5 does not greatly modify the impact of clause 4.2.

Many foods in international trade are known to contain harmful substances and/or contaminants. For example most bean products contain antinutrient factors and cassava contains a cyanogenic glucoside which

can be harmful to consumers. Similarly raw meats may be expected to sometimes contain pathogenic microorganisms. In these examples traditional food preparation practices, cooking in particular, usually render the harmful substances/contaminants harmless. Thus, these foods do not pose a risk to public health, provided that they have been hygienically prepared and do not contain toxic substances or contaminants at a level at which they will not be adequately rendered harmless by routine food preparation. Except in instances where food preparatory steps are either inadvertently or deliberately modified (eg undercooking of hamburgers, or the cooking of cassava in closed containers), the safety record of such foods is such that consumers are not even aware of their potentially hazardous nature. However, the foods mentioned in the examples and other foods of similar nature do contain "substances in an amount that renders it poisonous, harmful or otherwise injurious to health" at the time the food is exported. In this context, the export of such foods is in contravention of the letter of the Codex Code of ethics. However because these foods are rendered safe during their preparation they are commonly accepted as being fit for human consumption, and thus comply with the intent/spirit of the Codex Code of Ethics. The code should therefore be revised so that it reflects accepted practice.

There are two categories of foods that should be covered by the requirements of the code. The first of these are conventional foods that may contain harmful substances and/or contaminants that are rendered harmless by traditional food preparation steps. The second involves non-conventional/novel foods or substitutes for conventional foods that may contain harmful substances/contaminants that may not be rendered safe by conventional food preparation; ie they require special steps to render them harmless/fit for human consumption.

Proposed Alternative Wording of Clause 4.2 (a)

Suggested wording for the Codex Code of Ethics that cover the above two circumstances are as follows:

"Subject to the provisions of Article 5 below, no food should be in international trade which:

- (a) has in or on it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health after it is has been prepared in accordance with common culinary or processing practice, in all other circumstances the food should be labelled "Fit for Human Consumption After Further Processing;

Where special processing or culinary steps or conditions are required to render the food harmless, the exporter of these foods must, on request, be able to provide scientifically sound, proven practical procedures for ensuring food safety."

OR

- 4.2 (a) "has in or upon it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health unless the food is subject to further processing so as to address these risks: or"

2. Clause 4.2 (b) Article 4 - General Principles

Issue

Clause 4.2 (b) states "Subject to the provisions of Article 5 below, no food should be in international trade which:

- (b) consists in whole or in part of any filthy, putrid, rotten, decomposed or diseased substance or foreign matter, or is otherwise fit for human consumption; "

According to this clause no food in export can contain **any** extraneous matter, except where a standard specifically permits this in accordance with clause 5.7 of the code. This is unrealistic and not in keeping with current practice. The requirement is also dangerous in that it can and does give a false impression to importing economies that are developing their own food standards that foods should be absolutely pure and totally free of all contaminants.

Contaminants may be classified into two functional categories as follows:

- Category 1. contaminants that are harmful to consumers when their concentration exceed a threshold values (eg. in the case of bacteria & viruses the infective dose.); and
- Category 2. contaminants that are harmless at any level, or the food is rendered unattractive or unpalatable when the level of contamination or spoilage reaches a level at which it may be harmful.

In practice many foods such as fruits and vegetables are sorted before they are presented for sale, eg fruits affected with fungus are rejected, and commercial forces come into play when the level of spoilage or contamination exceeds a commercially acceptable level.

Contaminants of Category 1 are food safety hazards that are adequately catered for through the prohibition in clause 4.2(a).

Contaminants of Category 2 are essentially quality related and should be adequately managed through the free operation of market forces, and through the operation of suitable trade practices legislation which allows goods which do not adequately measure up to reasonable consumer expectation to be returned to the seller. Importantly consumer expectations of quality are usually modified by cost. Hence consumers usually expect that a good bought a lower cost is not of the same quality as a higher priced good. In addition, the definition of filthy, putrid etc. varies between countries. For example "Ghee" is expected to be partly hydrolysed (decomposed ??) butterfat/milkfat, and purified, textured butterfat/milkfat is not considered to be an acceptable product by traditional users of Ghee in Asia.

Suggested Change to Clause 4.2 (b)

Delete the clause. This change is also consistent with CAC agreed approach of limiting the focus of Codex standards to food safety related considerations.

2. Article 6 Implementation - Clause 6.1

Clause 6.1 states: "Food that is exported shall conform:

- (a) to the food legislation, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the importing country; or
- (b) to the provisions contained in bilateral or multilateral agreements signed by the exporting country and the importing country; or
- (c) in the absence of such provisions to such standards and requirements as may be agreed upon, with emphasis on the use of Codex Standards wherever possible."

To comply with the requirements of clause 6.1 (a) exporting countries have to be fully conversant with the legislative requirements of all importing countries. This is an onerous, resource intensive and often-impractical task, which is superfluous in the context of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. This agreement requires importing countries to apply measures which are (in the case of foods) no more stringent than those specified in the standards, codes and guidelines developed by the Codex Alimentarius Commission. More stringent measures may be adopted where they are justified in accordance with the procedures detailed in the SPS agreement.

Suggested Change to Clause 6.1

"Food that is exported shall conform:

- (a) to the requirements of Codex Alimentarius Commission's standards, codes or guidelines; or
- (b) to the requirements of importing countries where the country has notified exporting countries of more stringent measures; or
- (c) to the provisions contained in bilateral or multilateral agreements signed by the exporting country and the importing country.

BRAZIL

We would like to forward Brazil comments on the **CL 1999/19 – GP – Revision of the Code of Ethics for International Trade in Foods**

Brazil understands that it is important to have a Codex Code of Ethics for International Trade in Food and that the following changes or amendments(which are in *italics*), should be made:

1 - INTRODUCTION

We understand that this is a Code of Ethics, not a suggestion to "adequate food control infrastructures to protect consumers". In addition we don't see any reasonable justification to focus particularly the developing countries. So we suggest the following text:

" This Code of Ethics for International Trade in Food is related to the main requirements necessary to conform an ethical conduct in the international trade of foods."

2 - PREAMBLE

letter (d)

Suggestion to eliminate the phrase "***food contamination through environmental pollution***", since we understand that the term "food safety" means the absence of any type of contamination.

letter (f)

Suggestion to change to: "***The World Trade Organization represents an appropriate instrument for the regulation of international trade and that its SPS Agreement establishes Codex standards, guidelines and recommendations as a reference for food safety***".

3 - ARTICLE 3 - DEFINITION AND INTERPRETATION

3.2 - In order to clarify the wording, we suggest the following change: "***The provisions of this Codex Code are interrelated. Their interpretation and application shall be consistent with the context of all provisions.***"

4 - ARTICLE 4 - GENERAL PRINCIPLES

4.1 - In order to clarify the wording, we suggest the following change: "***International trade in food should be conducted on the principle of consumer protection, food safety and fair trade practices.***"

5 - ARTICLE 5 - SPECIFIC REQUIREMENTS

Food Standards

5.1 - We suggest the following change: "Appropriate and adequate national food standards, ***based in Risk Analysis***, and the orderly marketing of food can be better achieved through ***the harmonization of these standards in accordance with Codex related texts.***"

We suggest to add a new item about ***Foods Obtained Through Modern Biotechnology*** and the following wording for the items 5.2 to 5.10 - "***The provisions related to Food Hygiene, Food Labelling, Food Additives, Pesticide Residues, Microbiological Contaminants, Other Contaminants, Irradiated Food, Nutrition and Foods for Special Dietary Uses, Foods Obtained Through Modern Biotechnology should be established in accordance with Codex related texts***".

ARTICLE 6 - IMPLEMENTATION

We suggest to change the paragraph after letter c on item 6.3, to read as follows:

"the authorities of the importing country should proceed in accordance with Codex specific texts.

CANADA

PREAMBLE

RECOGNIZING THAT:

1. Canada suggests that a new paragraph be added to the preamble clearly stating that nations have the right to establish their own appropriate level of protection. Canada suggests the following text:

"Nations have the right to establish their appropriate level of protection, based, among other things, on its own social or cultural attitudes towards risk."

The introduction of this concept as part of the preamble strengthens the importance of the role of national authorities in standard setting and reinforces the application of the document as an international Code of Ethics.

2. Section (a): Canada recommends that the text, "...of the individual and his family..." in (a) be **DELETED** and be **REPLACED** with the text, "...of individuals and their families..." or "...the individual and the family...". This terminology is more gender neutral. It is further suggested that reference to "sound" be deleted from the phrase "*adequate, safe, sound and wholesome food*" as it is redundant. This comment would also apply to other instances in the document where this phrase is used.

3. Section (c): It is suggested that the words "...quite critical." at the end of the sentence in (c) be modified to remove the word "quite". The end of the sentence would then read, "...protection from unfair trade practices is critical."

4. Section (d): Although the content of (d) is valid, the section is loquacious and hence becomes a little confusing. It is suggested that the section be rephrased as follows:

"There is increasing worldwide concern about food safety, food contamination due to environmental pollution, and adulteration. Furthermore, with the globalization of food trade, concerns are growing with respect to quality, quantity and presentation of food due to unfair trade practices, food losses and food wastage. There is a world wide desire to improve the quality and nutritional status of food."

5. Section (f): Canada further suggests that this section be **DELETED** in its entirety and be **REPLACED** with the following text:

"The World Trade Organization Agreements on the Application of Sanitary and Phytosanitary Measures and Technical Barriers to Trade represent appropriate instruments for the administration of international food trade."

This would serve to update the reference to the international body administering international food trade and reflect the completion of the Uruguay Round Multilateral Trade Negotiations.

AND CONSIDERING THAT:

6. Section (a): Canada recommends that (a) under this heading be **DELETED** and replaced with the following:

"The mandate of the Codex Alimentarius Commission is to elaborate international food standards for the protection of the health of the consumer and to facilitate fair practices in the food trade."

This change would place the focus of the article on the mandate of Codex rather than the standard setting process and avoids introducing the concept of “harmonization” of standards which some countries do not fully agree with.

7. Section (b): It is suggested that the words, “...of the recommendations of the Codex Alimentarius Commission” at the end of section (b) be **MODIFIED** to read, “...of the standards and related texts of the Codex Alimentarius Commission.”

ARTICLE 3 - DEFINITION AND INTERPRETATION

8. Section 3.1: It is suggested that the text which reads, “...in the manufacture, preparation or treatment of food...” be **CHANGED** to read, “...in the growth, production, manufacture, preparation or treatment of food...”. This change would reflect the application of the Code to the food continuum.

It is further suggested that the phrase “...used only as drugs” at the end of 3.1 be revised to “...therapeutic products”. This would serve to make a clearer distinction between foods that are intended to be “consumed” and other edible products ingested for “therapeutic” rather than nutritional reasons.

ARTICLE 4 - GENERAL PRINCIPLES

9. Section 4.1: Canada suggests changing the text, “...entitled to safe, sound and wholesome food...” contained in this section to read, “...entitled to safe, wholesome and nutritious food...” And thus enhance the importance of the nutritional aspects of the food supply.

10. Section 4.2(e): Furthermore, Canada suggests changing the text, “...is sold, prepared, packaged, stored or transported for sale...” contained in section 4.2(e) to read, “...is prepared, packaged, stored or transported under unsanitary conditions...”. This change would reflect that this article applies to all food in international trade, not just food “for sale” as the term “sale” or “sold” is not defined in the code.

ARTICLE 5 - SPECIFIC REQUIREMENTS

FOOD STANDARDS

11. Section 5.1: Canada suggests that article 5.1 be reworded as follows:

“Appropriate and adequate national food standards should be established and enforced taking into account the food standards and related texts, where appropriate, elaborated by the Codex Alimentarius Commission.”

The suggested text would emphasize the concept that national governments have the right and the obligation to establish national food standards, while enhancing the notion that Codex establishes international standards which should be considered in the development thereof.

FOOD HYGIENE

12. Section 5.2: It is suggested that this section be revised to read as follows:

“Food should be subject at all times to good hygienic practices, which as a minimum should adhere to the codes of practice elaborated by the Codex Alimentarius Commission.”

LABELLING

13. Section 5.3: The current section 5.3 should be deleted and a revised 5.3 inserted to read;

“All food should be accompanied by accurate and adequate descriptive information particularly:

- (a) in the case of prepackaged food, labelling should, in the absence of national requirements of the importing country, as a minimum be in accordance with provisions and standards elaborated by the Codex Alimentarius Commission; and,***
- (b) in the case of food in bulk and non-retail containers, labelling should, in the absence of national requirements for the importing country, be in accordance with the Codex recommendations for the labelling of non-retail containers of food.***

FOOD ADDITIVES

14. Section 5.4: Canada suggests that the phrase “...in the absence of national requirements established by the importing country, as a minimum...” should be inserted between the text, “The use of and the trade in food additives should...” and “...in accordance with criteria in the General Principles for the Use of Food Additives adopted...”

This text enhances the importance of national standards while recognizing the role of Codex in setting international minimum standards.

PESTICIDE RESIDUES

15. Section 5.5: It is suggested that a similar amendment should be made to the text in Section 5.5. The following is the recommended rewording of this Section:

“Limits for pesticide residues in food should be subject to control and, in the absence of national limits, should take into account the international maximum limits recommended for pesticide residues elaborated by the Codex Alimentarius Commission.”

VETERINARY DRUG RESIDUES

16. It is noted that there is no section identifying requirements related to veterinary drug residues. It is suggested that such a section should be inserted with text similar to that used for pesticide residues, i.e.:

“Limits for veterinary drug residues in food should be subject to control and, in the absence of national limits, should take into account the international maximum limits recommended for veterinary drug residues elaborated by the Codex Alimentarius Commission.”

MICROBIOLOGICAL CONTAMINANTS

17. Section 5.6: In section 5.6, the phrase, “...in amounts harmful to man...” should be replaced with the phrase, “...in amounts which may represent a health hazard...”. In addition, it is suggested that viruses should be specifically identified in addition to “micro-organisms” and “parasites”.

OTHER CONTAMINANTS

18. Section 5.7: To be consistent with the other sections, it is suggested that the text, “...in the absence of national requirements established by the importing country, as a minimum...” should be inserted between the phrase, “Levels of other contaminants in food should be subject to control and should...” and the phrase, “...take into account the international maximum levels recommended...”

IRRADIATED FOOD

19. Section 5.8: In section 5.8, the text which reads, “Irradiated food should be produced and controlled in accordance...” should be revised to read, “If food is irradiated, the treatment should be controlled in accordance with national requirements, or, in the absence of national requirements, with the provisions and standards of the Codex Alimentarius Commission.”

ARTICLE 6 - IMPLEMENTATION

20. Section 6.1(c): In section 6.1(c), it is suggested that the text “... with emphasis of the use of Codex standards wherever possible” be changed to “... taking into account the provisions of Codex standards and related texts.”

21. Section 6.2: Canada suggests changing the text in this section from, “... taking into account such standards, codes of practice or other guidelines elaborated by ...” to “... taking into account such standards and related texts elaborated by ...”

22. Section 6.3(c): It is further suggested that the text after part 6.3(c) be revised to read “...the authorities of the importing country should inform the competent authorities in the exporting country of all the relevant facts involving consideration of human health or fraudulent practices in accordance with the provisions of the guidelines on the exchange of information between importing and exporting countries elaborated by the Codex Alimentarius Commission.”

ARTICLE 7 - RESPONSIBILITIES FOR IMPLEMENTATION

23. Section 7.1(c): In order to be consistent with Article 1, Canada suggests adding “... or responsible for regulating it” after the phrase “all concerned with international trade in food ...”

24. Section 7.1: It is suggested that the text in the last bullet in this section be changed from, “international food standards, codes of practice and similar other recommendations elaborated by Codex ...” to “... food standards and related texts elaborated by Codex ...”

ARTICLE 9 - EXCHANGE OF INFORMATION

25. It is suggested that the text “... *should use whatever appropriate facilities exist to warn those countries*” should be changed to “*should inform the competent authorities in the other countries in accordance with the provisions of the guidelines on the exchange of information in such situations elaborated by the Codex Alimentarius Commission.*”

Canada recommends the addition of another sentence under this heading:

“In addition, should an exporting country become aware of a problem related to an exported food product, the exporting country should immediately inform the competent authorities in the importing countries about the problem.”

As the article is currently worded, there is really no requirement for an exporting country to notify importing countries of any problems identified in an exported food. As presently worded, such a requirement only exists if a country denies entry.

EGYPT

REFERRING TO YOUR LETTER DATED AUGUST 1999 (CX 4/10, CL 1999/19-GP) CONCERNING THE REVISION OF THE CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOODS, PLEASE BE INFORMED THAT:

We have previously sent our reply on CL 1998/2-GP with our general comments

- Article 1 – Objective. We agree to establish standard of ethical conduct for all those engaged in international trade
- Article 2 (Scope) , Article 3 (Definition and interpretation), and article 4 (General Principles) and - - Article 5 (Specific requirements) matching the comments previously reported by our staff members
- Article (Implementation) please refer to the third line from the bottom “and appropriate action should be taken...”What do you mean by such action?
Article 7 (Responsibilities of implementation), Article 8 (Exceptional Circumstances) and Article 9 (Exchange of information) are acceptable
- Article 10 (Review). The report which should be submitted to the Secretariat of the Codex by each government...see line one...(From time to time), it should be changed to a specific period, for instance within a period of 6 months

GUYANA

The National Import/Export Committee which functions as a sub-committee of the National Codex Committee (NCC) met on 1999-10-29 to review the above mentioned document. Enclosed are the Comments identified at the meeting which are for your consideration.

1. Under article four (4) General Principles, the following statements should be included:
 - (i) does not include expiry date on the label or that will surpassed its expiration date before or soon after reaching the importing country
 - (ii) does not indicate date of manufacturing of food on the label.
2. Code Ethics should state that, labelling should clearly indicate if foods are from genetically modified sources.
3. Under Article 5, a separate statement should be included to address the limits for Veterinary Residues as established by Codex which should be taken into account by the exporting country.

UNITED STATES

Thank you for the opportunity to submit comments on the Revision of the Code of Ethics for International Trade in Food.. The United States notes the comments submitted by governments in response to CL 1998/2 and the discussion of this matter at the Thirteenth Session. In this submission, it offers views on some major points of discussion at the Thirteenth Session, and offers related proposals for changing the Code. Additionally, it repeats specific recommendations made in response to CL 1998/2 for changes in the code.

Incorporation of Provisions for Special and Differential Treatment of Developing Countries

The United States supports the incorporation of provisions in the Code relating to the needs of developing countries. Developing countries' acceptance and application of Codex standards provide food safety and trade benefits that accrue to all nations. Their investment in and commitment to meeting international standards requires a corresponding investment and commitment on the part of developed countries. The United States proposes changes to the Preamble and to Articles 1 and 2 in this regard, and proposes a new Article 10 dealing with this area.

Reference to the Status and Use of Codex Texts

The United States believes that it would be helpful to incorporate language in Article 5 that reflects the new status of Codex texts under the WTO SPS and TBT Agreements and provides encouragement for countries to utilize Codex texts to the fullest extent possible. While such language could make further reference to specific Codex texts unnecessary, leaving these references in (but updating them) provides clear guidance to countries and is appropriate in this instance.

Reference to Codex Policy in Standards Setting

In the earlier comments to the revision of the Code of Ethics (ref: CX/GP 98/12) certain countries recommended broadening the scope of the Code to include approaches to how Codex standards are established (e.g., inclusion of technological function in establishing MRLs, reference to appropriate safety factors, reference to appropriate other legitimate factors in Codex standards setting, and guidance on health claims). The United States does not believe it appropriate to incorporate such items into the Code of Ethics. Factors to be considered in elaborating Codex standards and related texts more properly belong in the Codex Procedural Manual. Specific factors such as safety factors, guidance on health claims and the like should be maintained in the appropriate Codex standard, guideline or recommendation document.

Specific Recommendations to the Code

The following specific recommendations to the text of the Code are suggested.

Preamble

For Sections under the heading "RECOGNIZING THAT":

Section (a), third line: Change "individual and his family" to "individuals":

Rationale: To make the reference gender neutral.

Section (d), first line: Change "increasingly worldwide" to "an ever present".

Rationale: Concern for food safety and adulteration will be an on-going concern,

Section (e), first line: Insert "often" between "are" and "not". In the second line, insert "exports and" before "imports", and insert "to" before "prevent".

Rationale: To better recognize situations in developing countries.

Section (f): Replace this section with the following wording. "The WTO agreements on trade, particularly the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and Technical

Barriers to Trade Agreement (TBT Agreement), provide obligations to countries with respect to consumer protection and the facilitation of trade."

Rationale: Updates the Code with respect to the establishment of the SPS and TBT Agreements.

Section (g): Replace with the following wording." The World Food Summit encourages the assurance of adequate supplies of safe and nutritious food for all peoples which is dependent upon the facilitation of trade and the use of appropriate food production and process controls exercised by both the food industry and governments."

Rationale: Extends the value of Code with respect to ensuring food security to all population groups.

For sections under the heading "AND CONSIDERING THAT":

Section (b), second line: Delete "and" after "infrastructures" and insert after "necessary" the phrase "and in accord with international trade agreements,".

Rationale: To insert reference to new WTO agreements arising from international trade agreements.

Insert a new Section (d) as follows: "Due consideration should be given to the needs of developing countries, enabling them to produce and maintain a safe and wholesome food supply; Rationale: Adds provision for developing countries.

For the "Hereby Decides..." declaration immediately preceding Article 1: Change "morally" to "to the ethical framework set forth in "

Rationale: Emphasizes fact that Code is ethical in nature.

Article 1- Objective

Place a comma after "conduct" and insert the phrase "including considerations relating to developing countries", .

Rationale: Incorporates the particular needs of developing countries.

Article 2- Scope

Add a new Section 2.3 as follows. "This Code provides guidelines with respect to the particular needs of developing countries.

Rationale: Incorporates the particular needs of developing countries. It parallels the reference in Article 1, "Objectives."

Article 4- General Principles

Section 4.2 (d): Delete the comma after "labelled".

Rationale: Grammatical correction.

Article 5- Specific Requirements

Insert a new Section 5.1 entitled: "Recognition of Codex Standards", to read as follows.

"The World Trade Organization has given status to the standards, guidelines and recommendation of the Codex Alimentarius Commission. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) requires countries to base their food safety measures on international norms unless they can scientifically justify a more stringent standard to achieve their appropriate level of public health protection. The SPS Agreement specifically mentions the Codex Alimentarius Commission as one of three reference international standards setting organizations. Additionally, Codex non-safety standards may be utilized to resolve technical trade disputes arising under the Technical Barriers to Trade Agreement (TBT Agreement)."

Rationale: Recognizes the new standing of Codex standards and thus the importance of using them.

Renumber Section 5.1 to 5.2, retitle to “Food Standards Generally”, add a new first paragraph, and make minor word changes to the existing paragraph. The new Section 5.2 would then read as follows:

Section 5.2 Food Standards Generally

To help ensure consumer protection and facilitate trade, countries should utilize standards and related texts of the Codex Alimentarius to the fullest extent possible.

Appropriate and adequate national food standards should be established and enforced taking into account that uniform protection and the orderly international marketing of food can be achieved through the acceptance of food standards elaborated by the Codex Alimentarius Commission or the adaptation of national standards to such international recommendations in accordance with the obligations of the WTO SPS and TBT Agreements.

Rationale: Better organization of the Article and emphasizes the need for countries to utilize Codex standards.

Create a new Section 5.3 headed “Specific Requirements” and relabel the existing sections as follows:

Section 5.2 becomes Section 5.3.1 Food Hygiene

Section 5.3 becomes Section 5.3.2 Labeling

Section 5.4 becomes Section 5.3.3 Food Additives

Section 5.5 becomes Section 5.3.4 Pesticide Residues

Section 5.6 is deleted (see below).

Section 5.7 becomes Section 5.3.5 Other Contaminants

Section 5.8 becomes Section 5.3.6 Irradiated Food

Section 5.9 becomes Section 5.3.7 Foods for Infants, Children and other Vulnerable Groups

Section 5.10 becomes Section 5.3.8 Nutritional Aspects Concerning in particular Vulnerable Groups and Regions where Malnutrition Exists

Note: While references to existing Codes could be deleted since the proposed new Section 5.2 (above) encourages utilization of Codex texts, we believe it would still be helpful, for purposes of clarity, to explicitly delineate certain standards areas that are of importance to the ethical trading of foods as is provided for in the current Code.

Rationale: Better organization of the Article.

Old Section 5.2 (new Section 5.3.1): Rewrite the Section as follows. "Food should be subject at all times to sound hygienic practices as set forth in the current version of the *Recommended International Code of Practice: General Principles of Food Hygiene*, additional hygienic practices as may be recommended in Codex commodity standards, and the current revision of the *Principles for the Establishment and Application of Microbiological Criteria for Foods*.

Rationale: Updates the food hygiene provisions in line with new Codex texts in the field.

Old Section 5.6: Delete this section.

Rationale: The wording of this section has been deleted from the Codex Procedures Manual and replaced by wording that refers to the *Recommended International Code of Practice: General Principles of food Hygiene* and the *Principles for the Establishment and Application of Microbiological Criteria for Foods*. The information originally contained in this section is now contained in new Section 5.3.1, old Section 5.2.

Old Section 5.10: Delete the “in” from the title so that it would read “Nutritional Aspects Concerning Particular Vulnerable Groups and Regions Where Malnutrition Exists”.

Rationale: Grammatical correction.

Article 6- Implementation

New Section 6.2: Add a new Section 6.2 as follows and renumber. "To assist countries in the implementation of requirements, and to assist in the determination of equivalence, thereby protecting consumers and facilitating trade, countries should utilize the current version of the *Codex Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems* to the fullest extent possible.

Rationale. Updates Code to include these new Guidelines.

Section 6.3. first line following indents: Insert a comma after the word "should" and insert the phrase "in conformance with the current version of the *Codex Guidelines for the Exchange of Information Between Countries on Rejections of Imported Food,*".

Rationale: Updates Code to include these new guidelines.

Article 7- Responsibilities for Implementation

Section 7.1 (c): Add the following phrase between the words "all" and "concerned", "food manufacturers, distributors, transporters and all others".

Rationale: Clarifies the importance of the food processing and distributing industries as to their role in implementing the Code.

Article 9- Exchange of Information

Section 9. Delete the words "use whatever appropriate facilities exist to warn those countries" at the end of the section and replace with the following, "follow the current version of the *Codex Guidelines for the Exchange of Information Between Countries on Rejections of Imported Food*. For emergency situations countries should follow the current version of the *Codex Guidelines for the Exchange of information in Food Control Emergency Situations*."

Rationale: Updates Code to include these new guidelines.

Current Article 10- Review

We question whether this section is necessary. Has reporting actually been done? If so, what use of the reports have been made by the Codex Secretariat. It would seem that updates of the Code every 5-10 years, as is now being done, would suffice.

New Article 10- Consideration of the Needs of Developing Countries

While not lowering the level of consumer health protection, developed countries should recognize the limitations of developing countries to ensure that the food they produce, process, import and export meets international standards. Developing countries should commit to ensure that they produce, process, import and export safe and wholesome foods. Developed countries should facilitate programs, including those of FAO and WHO, to enhance the capability of developing countries to produce, process manufacture and import and export safe and wholesome foods. Rationale: Provides for the special needs of developing countries.

Consumers International

Consumers International strongly supports The Code of Ethics adopted by the Codex Alimentarius Commission in 1979 and revised in 1985. And made specific comments about its revision in response to CL 1998/2 GP.

The importance of a Code of Ethics for International Trade cannot be over emphasised, particularly in respect of the statement within the General Requirements, Volume 1A page 16 that the Codex Alimentarius Commission ...

“hereby decides to recommend that all those engaged in the international trade of food commit themselves morally to this code and undertake voluntarily to support its implementation in the larger interest of the world community”

This statement reflects the importance of the Code overall and its contribution to and underpinning of the work of the Codex Alimentarius Commission. Consumers International proposes that the Code of Ethics be thoroughly reviewed to reflect major developments within Codex, the WTO, and other relevant dimensions, since its last revision in 1985 and that the proposed revisions are further discussed at the 15th Session of the Committee on General Principles.

In this respect, several specific comments were received in response to the earlier consultation and circulated in paper CX/GP 98/12. CI believes that these provide excellent guidance to the Secretariat on some specific amendments. CI supports the general tone and direction of those comments provided by The Netherlands, the US and the European Community.

Specific Comments:

- **Preamble**

The tenets of the Preamble reflect the overall emphasis and values of The Code and should be retained and strengthened. The Preamble should be updated recognising that since 1985 new agreements, principles and recommendations have been made including The Rome Declaration on World Food Summit, The International Conference on Nutrition, the SPS and TBT Agreements and the FAO Conference on International Food Trade Beyond 2000.

- The application of **Risk Analysis** should be included in relevant sections particularly with regard to Residues, Contaminants and the establishment of maximum limits and controls.
- 5.1 Food standards: Monitoring and enforcement of standards must be adequately resourced especially in developing countries.
- 5.2 Food Hygiene, to include principles of HACCP and Risk Analysis
- 5.8 Food Irradiation, specifically “Irradiated food should at least be produced, **labelled** and controlled in accordance with provisions and standards of the Codex Alimentarius Commission”
- 5.9 and 5.10 These statements for ‘Foods for Infants, Children and other vulnerable Groups’ and ‘Nutritional Aspects where Malnutrition exist’ should be amended in the light of agreements at the International Conference on Nutrition and World Food Summit and CCNFSDU.
- Article 6 Implementation and Article 7 Responsibilities for Implementation should be revised in the light of the work of CCFICS.

Additional considerations:

- **Good Governance**

Given the responsibilities for Codex under WTO and public interest therein, International Trade rules should be seen to operate under the tenets of ‘good governance’. The Code of Ethics should explicitly incorporate principles of openness, transparency and accountability into the principles for Decision-Making, including the modus operandi for the application of scientific principles and advice into standards and recommendations for application and implementation.

Recommendation 12 of the FAO Conference on International Food Trade Beyond 2000 stated that "Member Governments, FAO and WHO should adopt policies wholly consistent with the need for an independent and transparent risk assessment in particular in relation to the selection of scientific experts, the working procedures and the tightening of the conflict of interest requirements". The criteria for selection of experts

should be made publicly available and a detailed 'declaration of interests' of selected experts should be made publicly available, including on the Internet. This does not mean to necessarily exclude those who declare an interest, but at least to make this information publicly available. In addition, a declaration of any benefits such as entertainment or free flights, which could be seen as an inducement to favourable treatment, must be declared.

Given the confidential nature and sometimes controversial aspects of expert committees and their work, a procedural rule should be adopted whereby members should be required to disclose to all interested parties the nature of any information which they make available to any one party, such as industry.

- **Dumping of sub-standard foods**

The Preamble recognises that "Food legislation and food control infrastructures are not sufficiently developed in many countries to enable adequate protection of their food imports and prevent the dumping of sub-standard and unsafe foods" further attention should be given to this problem in the Code.

- **Information exchange on rejected foods**

Section 6.3 implementation should be strengthened to improve the information available on foods detained or rejected at the point of import to prevent these foods being re-exported to another country unaware of their inferior status.

- **Title**

In view of the fact that revision of the Code of Ethics should take account of extended principles beyond ethics, such as Risk Analysis, its name should be amended to The Code of Ethics and General Principles for International Trade in Food.

- **UNEP Biosafety Protocol**

The Convention on Biological Diversity (CBD) is addressing the Biosafety Protocol which is likely to have implications for international trade in 'Living Modified Organisms' (LMOs). This should be an acknowledgement within this Code, so that trade with LMOs should at least be covered by the CBD Biosafety Protocol.

Summary:

Consumers International strongly proposed that The Code of Ethics be thoroughly reviewed and updated to reflect new developments and standards of Codex Alimentarius Commission to take into account its responsibilities and importance for consumers and international food trade.

European Network of Childbirth Associations (ENCA)

ENCA strongly supports a Code of Ethics governing international food trade. This revision is necessary to reflect major developments within Codex, the WTO, and other relevant dimensions, since its last revision in 1985. This is essential to ensure the highest level of consumer protection and transparent and fair food trade. It should be the basis of all Codex work and be followed by all those in food manufacture and trade.

We submit these comments to help in the revision of this important code.

Preamble

a) Change to read: "Adequate, safe, sound, **unadulterated, accessible** and wholesome food is a vital element for the achievement of **adequate** standards of living and that the right to a standard of living adequate for the health and wellbeing of the individual is proclaimed in the Universal Declaration of Human Rights..., **the International Covenant of Economic, Social and Cultural Rights**. (delete "of the United Nations") **the International Conference on Nutrition**.

c) Add unadulterated, accessible in the end of the third line

d) Change to read: "There is increasingly worldwide concern about food safety, **the safety of processed and genetically modified foods, misleading claims about foods, improper processing, food** contamination (delete "through environmental pollution")...

f) add: but should not be used to inhibit governments from setting adequate food regulations to attain the highest level of consumer protection

g) add first line: and relevant WHA resolutions,

change "principles" in "provisions", change aspect of "primary health care" to "factor in good infant health"

And considering that

(b) Add "independent" before "international organization"

To the recommendation in Capitals should be add:

"all those engaging in the manufacturing of food and"

"change: "and undertake voluntarily to support its implementation" to "and to implement this code in the....."

Article 1: Add "Manufacturing, distributing" before "regulating it"

Article 2.1.: "add food aid, transaction" from the foot line up here

Article 2.2.: add and food-aid manufacturers, distributors and governments

Article 4.1.: add again "unadulterated, accessible" after sound in conformity with changes proposed to the preamble

Article 4.2.: add after trade" ..or food aid.."

Article 4.2.: add "idealizing" after "misleading"

Add new section f.. to reflect the protection of consumers when only inconclusive scientific evidence is available

Article 5.1.: add There must be adequate resources to monitor the standards and the food laws

Article 5.3.: add in "appropriate languages"

Add a new paragraph between a + b

Labelling of foods for infants and young children should conform with the International Code of Marketing Breast-milk Substitutes and relevant WHA resolutions

Add a new paragraph D: All foods and food products containing ingredients derived from biotechnology should be labelled as such

Add after pesticide: "and other toxic"

5.9 add: and its parent bodies the FAO + WHO including the International Code of Marketing of Breast-milk Substitutes and relevant World Health Assembly resolutions"

5.10.: shorten the sentence to read: "No claims in any form should be made about foods and food products"

6.1.: add after importing "and exporting"

Article 7 Implementation

- c) Add "Manufacturers and distributors of products covered under article 2 (Scope) should ensure that their products and policies at every level conform to the articles of the Code of Ethics and that
- i. their employees are fully informed of the contents of this Code and the ethical principles embodied therein and their responsibilities under it;
 - ii. (independent of any other measures taken for implementation, manufacturers and distributors are responsible for monitoring their products and policies according to the articles of this Code and for ensuring that their conduct at every level conforms with them
 - iii. non-governmental organizations, professional groups, institutions and individuals concerned should have the responsibility of drawing the attention of governments, manufacturers and distributors to activities which are incompatible with the principles and articles of this Code so that appropriate action may be taken

Article 8: delete after....agreed criteria and replace by: "the basic principles of food safety laid down in article 4,5, and 6 of this Code have to be respected

Article 10: A clear definition of "from time to time" will strengthen implementation

International Baby Food Action Network (IBFAN)

The Codex Code of Ethics governing the behavior of not only governments but the food industry is essential to ensure the highest level of consumer protection and transparent and fair food trade. It should be the basis of all Codex work and be followed by all those in food manufacture and trade. The following comments are submitted by IBFAN to help in the revision of this important Code.

Title

Change the title to read "Code of Ethics and General Principles for International Trade in Food".

Preamble

(a) Change to read: "Adequate, safe, sound, unadulterated, accessible and wholesome food is a vital element for the achievement of adequate standards of living and that the right to a standard of living adequate for the health and wellbeing of the individual is proclaimed in the Universal Declaration of Human Rights... and the International Covenant of Economic, Social and Cultural Rights. (delete "of the United Nations")

(d) Change to read: "There is increasingly worldwide concern about food safety, the safety of processed and genetically modified foods, deregulation of food safety standards, misleading claims about foods, improper food processing, food contamination, adulteration, unfair trade practices in quality, quantity and presentation of food, food losses and wastage and, generally about the improvement of food quality and nutritional status. (delete "through environmental pollution" and "everywhere")

(f) Change to read: "The Technical Barriers to Trade Agreement and the Sanitary and Phytosanitary Measures of the GAAT represent inter alia appropriate instruments for the regulation of international trade, but must not be used to inhibit governments from setting adequate food regulations to attain the highest level of consumer protection.

(g) Change to read: "The International Code of Marketing of Breast-milk Substitutes and relevant World Health Assembly Resolutions sets forth provisions for the protection and promotion of breastfeeding which is an important factor in good infant health;

AND CONSIDERING THAT:

(a) Add: "and testing methods" before "for food" to read:..."harmonization of definitions, requirements, and testing methods for food;"

(b) Add: "independent" before "international organizations".

Change the CAC recommendation to read: "hereby recommends that all those engaging in the manufacture of food and the international trade in food commit themselves to this code and undertake voluntarily its implementation in the larger interest of the world community." (delete "decides to", "morally" and "to support")

Article 1- Objective

Add "manufacturing, distributing" before "regulating it"; to read "...all those engaged in international trade in food or are responsible for manufacturing, distributing and regulating it and thereby to protect the health of the consumer and promote fair trade practices."

Article 2- Scope

2.1 Change to read: " This code applies to all food, drinks, food commodities, novel foods, nutraceuticals introduced into international trade, including food aid transactions.

2.2 Add "governments, manufacturers and distributors of food" after "trade in food".

Article 3- Definition and Interpretation

Although the definition of food in the Code of Ethics is based on the definition contained in the CAC Procedural Manual (pg 42, tenth edition), it needs to be up-dated. IBFAN proposes the following definition:

"For the purpose of this Code, 'food' means any substance, whether processed naturally or synthetically, semi-processed, raw, or genetically altered which is intended for human consumption and includes drink, medical, nutraceutical and novel foods or any substance which has been used in the manufacture, preparation or treatment of 'food' but does not include cosmetics or tobacco or substances used only as drugs." (delete "chewing gum")

Article 4- General Principles

4.2 Add "or food aid " after "international trade", to read "Subject to the provisions of Article 5 below, no food should be in international trade or food aid which:"

(a) Add "human" before "health".

(c) Add: "idealizing" after "misleading".

Add new paragraph (f)

"(f) contains ingredients of which the long-term impact on human health cannot be adequately assessed due to inconclusive scientific evidence."

Article 5- Specific requirements

5.1 Add "The monitoring and enforcement of standards and food laws must be adequately resourced" to the end of the paragraph.

5.3 Change to read: "All foods should be labelled with accurate and adequate descriptive information in appropriate languages.

Add paragraph (c) as follows: "In the case of foods for infants and young children, labelling should conform with the articles of the International Code of Marketing of Breast-milk Substitutes and relevant World Health Assembly resolutions.

5.5 Add "and other toxic" after "pesticide" to read: "Limits of pesticide and other toxic residues should be subject to control..."

Add the following new paragraph after paragraph 5.7

"Foods derived from biotechnology"

All foods and food products containing ingredients derived from biotechnology should be labelled as such."

5.9 Add "and by its parent bodies the FAO and WHO, including inter alia the International Code of Marketing of Breast-milk Substitutes and relevant World Health Assembly resolutions" to the end of the sentence.

5.10

(a) Change to read: "No claims in any form should be made about foods and food products. (delete rest of the sentence)

(b) Change to read: "information concerning the nutritional and energy values of food should not mislead the public and should conform with the requirements of the CAC."

Article 6-Implementation

6.1 (a) Add "and exporting" after "importing" to read: "...as may be in force in the importing and exporting country;

(b) Delete "whenever possible".

Article 7- Implementation

7.1

(c) Add "Also manufacturers and distributors of product covered under article 2 (Scope) should ensure that their products and policies at every level conform to the articles of the Code of Ethics and that

(i) their employees are fully informed of the contents of this Code and the ethical principles embodied therein and their responsibilities under it;

(ii) independent of any other measures taken for implementation, manufacturers and distributors are responsible for monitoring their products and policies according to the articles of this Code and for ensuring that their conduct at every level conforms with them.

(iii) non-governmental organizations, professional groups, institutions and individuals concerned should have the responsibility of drawing the attention of governments, manufacturers and distributors to activities which are incompatible with the principles and articles of this Code so that appropriate action may be taken.

Article 8- Exceptions

8. Change to read: "Even in exceptional circumstances, such as emergencies, exporting and importing countries and humanitarian aid organizations should ensure that their policies and practices conform to articles 4, 5 and 6 of this Code."

Article 10- Review

10. Replace "From time to time" with "Every two years".