

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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Agenda Item 4 a)

CX/GP 04/21/4

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

Twenty-first (Extraordinary) Session
Paris, France, 8-12 November 2004

REVIEW OF THE GUIDELINES FOR CODEX COMMITTEES AND OTHER ADDITIONAL TEXT:

A) DRAFT GUIDELINES ON PHYSICAL WORKING GROUPS AND DRAFT GUIDELINES ON ELECTRONIC WORKING GROUPS (Prepared by the French Secretariat)

BACKGROUND :

1. The twenty-sixth session of the Codex alimentarius Commission (Rome, July 2003) considered the recommendation of the FAO/WHO Evaluation report on working groups¹ and the proposals contained in the working document², prepared by the Codex secretariat, on the use of physical and electronic working groups³ and requested the Codex Committee on General principles (CCGP) to address this issue at its next extraordinary session.
2. The 19th (extraordinary) session of the Codex Committee on General Principles (Paris - November 2003) considered the two Drafts guidelines, one for electronic and one for physical working groups, prepared by the French secretariat⁴. The Committee on General principles agreed that both Draft Guidelines would be circulated for comments in a separate Circular Letter⁵.
3. The Committee further agreed that the French Secretariat would redraft both Draft Guidelines in the light of its discussion⁶ at its 19th session and the written comments received in reply to the Circular Letter, for consideration at the next (extraordinary) session.
4. The circular letter CL 2003/45-GP was issued in December 2003, requesting comments before March, 30th 2004. The Delegations of Australia, Canada, Mexico, Panama, USA have submitted written comments.
5. The French secretariat has taken into account all the comments made during the previous session of the CCGP and submitted in the replies to the circular letter. The new draft are found in ANNEX 2 (Physical working groups) and ANNEX 3 (electronic working groups) of this paper.

CHANGES MADE DURING THE REVISION OF THE DRAFT GUIDELINES :

FORMAT, TERMINOLOGY :

6. The Committee noted⁷ that the guidelines should not be too close to those of a subsidiary body of the Commission and that the formality of the process would not allow flexibility in the organisation of work and

¹ ALINORM 03/25/3 -- p. 38; (recommendation n° 20)

² ALINORM 03/26/11 - Add. 3

³ See these texts in Annex 1

⁴ CX/GP 03/19/7

⁵ Circular Letter CL 2003/45-GP

⁶ ALINORM 04/27/33 -- para. 106-118

⁷ ALINORM 04/27/33 -- para. 106

exchange of views in working groups. Reading the initial version of the two drafts, in document CX/GP 03/19/7, in parallel with the Guidelines on advice to host governments...., on conduct of meetings and to chairperson... revealed substantial duplication of text.

7. In order to address the concerns raised by the Committee, all the duplicate texts have been removed from the new draft of these guidelines; the introduction has been amended to indicate that the rules of procedures applicable to subsidiary bodies should apply to working groups *mutatis mutandis*, and only if the Guidelines do not provide specific directions.

8. This new approach entails substantial changes (mainly deletions) in the revised drafts, which now focus on issues specifically relevant to working groups. In order to ensure a basic consistency between the two Guidelines and with other relevant texts in the Procedural Manual, the presentation follows closely the layout of the Guidelines to host governments....

9. The Committee noted⁸ that the use of the term "Coordinator" might create confusion with Regional Coordinators. This term is changed to "Host" in the revised drafts.

CONTENT OF THE GUIDELINES

INTRODUCTION

10. Written comments noted that the achievement of a world wide consensus required the involvement of all Members of Codex, not only the active participation of developing countries in electronic working groups. On the other hand, the Codex alimentarius Commission endorsed the emphasis on inclusiveness found in the Evaluation report. The wording of the Introduction has been slightly amended to retain both aspects.

11. As there are circumstances where an electronic working group might not be the preferred option, written comments suggested a minor modification to the text to indicate that electronic working groups should be the first consideration but alternative mechanisms could be implemented should the Committee determine that such mechanisms would achieve the desired goal more effectively. The draft guidelines on electronic working group was amended accordingly. All standards or related texts might not be of equal interest to all regions and flexibility should be allowed in this respect.

COMPOSITION OF WORKING GROUPS - MEMBERSHIP & OBSERVERS

12. It was noted, in written comments, that participation in working groups should be determined by the Committee. There may be occasions when participation on a working group would need to be limited to Members delegations only (i.e.). Therefore, additional text to reflect this possibility has been inserted in the draft guidelines.

ORGANIZATION AND DUTIES

13. Written comments pointed out that, rather than giving detailed instruction on "who" in a country should undertake specific tasks, it is best to identify that it is the Host (i.e. the country which has agreed to host the working group) that has the responsibility and leave it to decide on how it is going to proceed.

CHAIRPERSON

14. The view⁹ was expressed that the impartiality of the Coordinator and/or Chairperson of a working group was essential and proposed that the Criteria for the Appointment of Chairpersons should also apply to the Chairpersons and meetings of working groups. A reference to the Criteria for the Appointment of Chairpersons has been inserted in this section.

SECRETARIAT

15. The Committee was informed by the Secretariat¹⁰ that a systematic involvement of the FAO/WHO Codex Secretariat in the operation of the working groups could give rise to statutory problems. References made to the Codex secretariat were deleted, where appropriate, in the revised drafts.

⁸ ALINORM 04/27/33 -- para. 107

⁹ ALINORM 04/27/33 -- para. 114

¹⁰ ALINORM 04/27/33 -- para. 115

DUTIES AND TERMS OF REFERENCE

16. Written comments suggested that the body responsible for establishing the terms of reference for the working group should be more clearly stated in this section and that the terms of reference should be established before the Committee session adjourns.

17. The terms of reference should also mention the language(s) to be used and whether observers might participate in the working group.

18. Written comments suggested that the language(s) in which the working group would be conducting its business should be determined at the time the working group was established and should be reflected in its terms of reference. They also emphasised that the translation of documents and interpretation entails a commitment of resources on the part of the country hosting the working group. In addition, the host country will need to take into account the time required to translate documents and incorporate those times into the time lines for the working group.

19. On the other hand, the Committee noted the views expressed by delegations of the LAC region and written comments supporting a requirement that all working groups use the three languages of the Commission.

20. The Committee may wish to recognise that the need to ensure inclusiveness and active participation in the working groups should not be achieved at the expense of efficiency, flexibility and timeliness, that no general provision would ensure that such balance is found in each particular case and that it should be left to each Committee concerned to decide, on a case by case basis, what consideration should take precedence.

SESSIONS - DATE AND PLACE

21. Several delegations proposed to amend the section on Duties and Terms of Reference to the effect that working groups convened during a session of a Committee should be scheduled so as to allow participation of all delegations present at the session. The draft guidelines on physical working groups were amended accordingly.

WORKING GROUP NOTIFICATION ...

22. Following written suggestions, the phrase "Invitation and provisional agenda", now reads "Working Group Notification and Provisional Agenda" in the draft guideline on physical working group and "Electronic working group notification and programme of work" in the draft Guidelines on electronic working group.

23. The Committee noted¹¹ that the requirement for clearance from national authorities at a ministerial level might create significant delay in the process. This requirement has been dropped.

24. The Committee noted¹² that not only those delegations present at a Committee session, when a working group is established, but all other Members and Observers should be invited to attend working group meetings. The draft guidelines on physical working group was amended accordingly and a similar provision was inserted into the draft guidelines on electronic working groups, extending the invitation to participation in such groups to all members of Codex and observers, meeting the requirement agreed upon by the Committee (see para. 12 above).

PREPARATION AND DISTRIBUTION OF PAPERS

25. Written comments expressed the need that the circulation of papers be kept as simple and informal as possible. Any documents prepared for consideration by the working group should be in one of the languages that was agreed to and identified in the terms of reference established by the Committee.

26. Members and observers who respond to the invitation to participate in the working group would normally be the recipients of any working papers. Such papers would not necessarily be distributed to all member countries, depending upon the nature of the issues under discussion and the mandate given to the working group.

27. Circulation of the working group documents should be the responsibility of the Host.

¹¹ ALINORM 04/27/33 -- para. 106

¹² ALINORM 04/27/33 -- para. 110

28. The Committee noted¹³ that electronic working groups normally operated by exchanging electronic mail but that in the future the use of more sophisticated Internet-based software could be considered. Written comments suggested to include a specific reference to "Internet-based" electronic communication software and a new provision recommending to consider "web-conferencing" for working group sessions, in which an interactive exchange of information could take place. However, the Committee has previously noted¹⁴ that many developing countries experienced difficulties with electronic communication.

29. In terms of procedure, the main issue is whether the process allows for face-to-face interaction between participants (as in physical working group, where participants travel at the invitation of the host to attend a session or as in "virtual" working groups using an internet-based technology, permitting each participant at home to connect oneself to the session and to exchange views with others in "real-time"), or operates in writing (dispatched by mail, fax ore email) and provides sufficient time for each participant to consider the materials submitted by others.

30. The Committee may wish to note that, as the cost of travel may be a serious impediment to inclusive and balanced participation in physical working groups, the limited Internet technology available in some parts of the world may still constitute a serious barrier to access to "virtual" working groups, using sophisticated electronic communication software, for several members of Codex and observers; that these practical constraints on equal participation will persist for some time in the future.

31. It may also note that, in view of the need to mitigate these constraints, the organisation of a working group (whether physical or "virtual"), where interactive exchange takes place, should follow the usual pattern of communication, including : (1) preliminary written comments allowing delegations unable to participate to the session to submit their views in advance by emails; (2) these comments to be brought to the attention of the participants during the session by the host, at the latest ; and (3) a report, agreed upon by all the participants in the session and circulated to all members of Codex and observers.

32. A specific reference to the guidelines on physical working groups has been inserted in the revised guidelines on electronic working group to address this issue (see note 1 in Annex 3).

CONDUCT OF MEETINGS

33. Written comments expressed the view that since working groups have a limited mandate, and are not decision-making bodies, implying that they be open to the public unless the Committee decides otherwise, creates logistical and administrative costs which could hinder the conduct of the actual working group. The requirement has been deleted from the Draft Guidelines for physical working groups.

REPORTS

34. It was noted, in written comments, that it would be more appropriate, and in line with current practice, for the physical Working Group to report, through its Chairperson. Therefore, the words "through its Chair" were added after the words "the working group shall report....", in the draft guidelines on physical working groups.

35. Written comments expressed the need that, as for the distribution of working documents, the circulation be kept as simple and informal as possible : once the working group report is "adopted" by the working group, it should be sent to the Codex Secretariat who will distribute the report to all Members of the Commission and observer organisations as part of the working papers for the Committee's next session

RECOMMENDATIONS TO THE CODEX COMMITTEE ON GENERAL PRINCIPLES :

36. The Committee is invited to consider the issues raised in para. 20 & 28-31 and to forward both draft Guidelines to the Codex alimentarius Commission for adoption at its next session.

¹³ ALINORM 04/27/33 -- para. 117

¹⁴ ALINORM 04/27/33 -- para. 108

***DECISIONS AGREED UPON AT THE 26TH
SESSION OF THE CODEX ALIMENTARIUS
COMMISSION (JULY 2003)***

Recommendation 20

FAO/WHO report ALINORM 03/25/3

The emphasis in Codex should switch from writing standards in meetings to developing standards through a consultative process between meetings. Much greater use should be made of consultants/facilitators to progress work between committee sessions, with the cost borne by host countries. As well as speeding up work, greater inclusiveness would be ensured by full consultation including, where appropriate, the organisation of local workshops and:

- written comments should be fully taken into account;
- where between-session working groups are used they should be electronic, not generally physical meetings which are not inclusive in possible participation;
- greater use should be made of knowledgeable NGOs in preliminary standard development.

Proposal	20
Codex Document	ALINORM 03/26/11 - Add. 3
Background	<p>Codex Committees, when deciding to undertake work between sessions, should give the first priority to the establishment of electronic working groups to be coordinated by the Host Government Secretariat. Such working groups should be open to all members of the Commission and interested international organisations as observers providing comments. The terms of reference and the expected output of the Working Group should be explicitly stated. Such working groups should be disbanded once their specific task has been achieved.</p> <p>167. The Commission agreed in principle to all three proposals¹⁵ but decided that the modalities would require clarification by the body responsible for reviewing the Procedural Manual¹⁶.</p>

Proposal	21
Codex Document	ALINORM 03/26/11 - Add. 3
Background	<p>If Codex Committees decide to undertake work between sessions by means of physical working groups, such working groups should be representative of the membership of the Commission. It is therefore proposed that the membership of such working groups be limited to two or three members from each of the Commission's regions. Interested international organisations may be invited to participate as observers, provided that the number of observers does not exceed one half the number of countries participating as members. The composition of the working group should be explicitly defined, as should its terms of reference and the expected output. Such working groups should be disbanded once their specific task has been achieved.</p> <p>167. The Commission agreed in principle to all three proposals¹⁷ but decided that the modalities would require clarification by the body responsible for reviewing the Procedural Manual¹⁸. With respect to electronic working groups, the Commission noted that these were an avenue for exchanging views and not for decision making. Physical working groups should be ad hoc, open to all members, take account the problems of developing country participation and only be established where there is consensus in the Committee to do so and other strategies have been considered.</p>

¹⁵ Proposal No. 19 (Use of facilitators), Proposal No.20 (Establishment of electronic working groups), Proposal No.21(Establishment of physical working groups)

¹⁶ i.e. the CCGP (cf.. § 169 -- ALINORM 03/41)

¹⁷ Proposal No. 19 (Use of facilitators), Proposal No.20 (Establishment of electronic working groups), Proposal No.21(Establishment of physical working groups).

¹⁸ i.e. the CCGP (cf.. § 169 -- ALINORM 03/41).

DRAFT GUIDELINES ON PHYSICAL WORKING GROUPS

INTRODUCTION

Working groups should be *ad hoc*, open to all members, take into account the problems of developing country participation and only be established where there is consensus in the Committee to do so and other strategies have been considered.

The Rules of Procedure governing the work of a Codex Committee shall apply, *mutatis mutandis*, to the working groups this Committee establishes, unless stated otherwise in these Guidelines.¹⁹

The Guidelines applying to physical working groups (hereinafter, "working groups") established by Codex Committees as described in these guidelines apply also to those established by Regional Coordinating Committees and by Codex ad hoc Intergovernmental Task Forces.

COMPOSITION OF WORKING GROUPS

MEMBERSHIP

Membership of a working group is notified to the chairperson of the Codex Committee.

When establishing a working group, a Codex Committee should ensure, as far as possible, that the membership is representative of the membership of the Commission.

OBSERVERS

Codex observers should notify the Chairperson of the Codex Committee of their wish to participate in a working group, if participation of observers has been agreed to by Committee Members.

ORGANIZATION AND DUTIES

A Codex Committee may decide that the working groups will be managed by the Host Government Secretariat, or by another member of the Commission, having volunteered to undertake this responsibility and having been accepted by the Committee (hereinafter "the Host").

CHAIRPERSON

The Host is responsible for appointing the chairperson of the working group.

While selecting of the appointee, the Host may consider applying, where relevant, the *Codex Criteria for the appointment of chairpersons*²⁰.

SECRETARIAT

The Host is responsible for providing all conference services, including the secretariat, for the working group and should meet all the requirements agreed upon by the Committee, when the working group was established.

DUTIES AND TERMS OF REFERENCE

The terms of reference of the working group shall be established by the Committee during its plenary session, shall be limited to the immediate task at hand and normally shall not be subsequently modified.

The terms of reference shall clearly state the objective(s) to be achieved by the establishment of the working group and the language(s) to be used.

The terms of reference shall clearly state the time frame by which the work is expected to be completed.

The proposals/recommendations of a working group shall be presented to the Committee for consideration.

¹⁹ The provisions of the "Guidelines to Host Governments of Codex Committees and *Ad Hoc* Intergovernmental Task Forces", the "Guidelines on the Conduct of Meetings of Codex Committees and *Ad Hoc* Intergovernmental Task Forces" and the "Guidelines to Chairpersons of Codex Committees and *Ad Hoc* Intergovernmental Task Forces" are especially relevant in this matter.

²⁰ See ALINORM 04/27/5 -- Appendix IV. These criteria have been adopted during the 27th session of the Codex Alimentarius Commission and will be inserted in the next edition of the Procedural Manual.

They shall not be binding on the Committee.

The working group shall be dissolved after the specified work has been completed or when the time limit allocated for the work has expired or at any other point in time, if the Codex Committee which has established it, so decides.

No decision, no vote either on point of substance or of procedure, shall take place in working groups.

SESSIONS

DATE AND PLACE

A session of a working group may be held at any time, in-between two sessions, immediately before or even during the session of the Committee, which has established it.

When convened in-between two sessions of the Committee, the session of the working group should be scheduled as to allow the working group to report to the Committee well in advance of the next meeting so that countries and other interested parties, that were not members of the working group, can comment on the proposals that the working group might put to the Committee.

When convened during a session of a Committee, a working group should be scheduled so as to allow participation of all delegations present at the session.

WORKING GROUP NOTIFICATION AND PROVISIONAL AGENDA

Sessions of a working group shall be convened by the Chairperson designated by the Host.

A notice of the working group meeting and provisional agenda shall be prepared, translated and distributed by the Host. It shall be issued to all Members and Observers who have expressed the willingness to attend the meeting. These documents should be distributed as far in advance of the meeting as possible.

ORGANIZATION OF WORK

Written comments will be circulated to all concerned by the secretariat of the Host.

PREPARATION AND DISTRIBUTION OF PAPERS

The secretariat of the Host should circulate the papers at least two months before the opening of the session.

Paper for the session prepared by the participants should be sent to the secretariat of the Host, in good time.

REPORTS

The Secretariat of the Host should, as soon as possible after the end of the session of a working group, send a copy of the final report to the Joint FAO/WHO Secretariat.

Reports of working groups shall be distributed to all Codex Contact Points and observers by the Joint FAO/WHO Secretariat in time to allow full consideration of the working group's recommendations.

The Joint FAO/WHO Secretariat should ensure that this report is included in the distribution of papers for the next session of the Codex Committee.

The working group shall report, through its Chairperson, on the progress of its work at the next session of the Committee, which has established it.

DRAFT GUIDELINES ON ELECTRONIC WORKING GROUPS

INTRODUCTION

The search for world-wide consensus and for greater acceptability of Codex Standards requires the involvement of all the Members of Codex and the active participation of developing countries.

Special efforts are needed to enhance the participation of developing countries in Codex Committees, by increased use of written communications, especially through remote participation via email, internet and other modern technologies, in the work done between sessions of Committees.

Codex Committees, when deciding to undertake work between sessions, should give the first priority to considering the establishment of electronic working groups.

The Rules of Procedure governing the work of a Committee shall apply, *mutatis mutandis*, to the electronic working groups this Committee establishes, unless stated otherwise in these Guidelines.²¹

The Guidelines applying to electronic working groups established by Codex Committees, as described in these Guidelines, apply also to those established by Regional Coordinating Committees and by Codex ad hoc Intergovernmental Task Forces.

COMPOSITION OF ELECTRONIC WORKING GROUPS

MEMBERSHIP

Membership of an electronic working group is notified the chairperson of the Codex Committee.

Any other Member of the Commission, from outside the region concerned, may participate at any electronic working group, established by a Regional Coordinating Committee.

OBSERVERS

Codex observers should notify the Chairperson of the Committee of their wish to participate in a working group, if participation of observers has been agreed to by Committee Members.

ORGANIZATION AND DUTIES

Codex Committees may decide that the electronic working group will be managed by the Host Government Secretariat, or by another member of the Commission, having volunteered to undertake this responsibility and having been accepted by the Committee (hereinafter "the Host").

MANAGEMENT

The Host is responsible for the management of the electronic working group for which it has been appointed.

The business of an electronic working group is transacted exclusively by electronic means.

SECRETARIAT

The Host is responsible for providing the secretariat of the electronic working group with all services needed for its functioning, including suitable Information Technology (IT) equipment, and should meet all the requirements agreed upon by the Committee.

DUTIES AND TERMS OF REFERENCE

The terms of reference of the electronic working group shall be established by the Committee during its plenary session, shall be limited to the immediate task at hand and normally shall not be subsequently modified.

The terms of reference shall clearly state the objective(s) to be achieved by the establishment of the

²¹ The provisions of the "Guidelines to Host Governments of Codex Committees and *Ad Hoc* Intergovernmental Task Forces", the "Guidelines on the Conduct of Meetings of Codex Committees and *Ad Hoc* Intergovernmental Task Forces", the "Guidelines to Chairpersons of Codex Committees and *Ad Hoc* Intergovernmental Task Forces" and the "Guidelines on Physical Working Groups" are especially relevant in this matter.

electronic working group and the language(s) to be used.

The terms of reference shall clearly state the time frame by which the work is expected to be completed.

The electronic working group shall be dissolved after the specified work has been completed or when the time limit allocated for the work has expired or at any other point in time, if the Codex Committee which has established it, so decides.

No decision, no vote either on point of substance or of procedure, shall take place in electronic working groups.

ELECTRONIC WORKING GROUP NOTIFICATION AND PROGRAMME OF WORK

A notice indicating when the electronic working group starts to operate and a programme of work shall be prepared, translated and distributed by the Host to all Members and Observers who have expressed the willingness to contribute.

ORGANIZATION OF WORK

Circulation of drafts and calls for comments shall include a request for the names, positions and e-mail addresses of all the persons willing to contribute to the business of the electronic working group.

Comments from participants should be submitted exclusively by electronic means. These submissions shall be circulated to all concerned by the Host.

Any participant should be made aware of the materials contributed by all others.

An update on the progress of its work shall be presented by the Host at each session of the Codex Committee which has established it, indicating the number of countries having sent contributions by mail. A compilation of these contributions should be made available.

PREPARATION AND DISTRIBUTION OF MATERIALS

Materials should be sent to the secretariat of the Host, in good time.

The Host is responsible for the distribution of all the materials submitted by a participant during the business of the electronic working group to all other participants of the electronic working group.

Attention should be given to constraints of a technical nature (file sizes and formats, limited bandwidth, ...) and special care should be taken to ensure the widest distribution of all the available materials.

REPORTS

As soon as possible after the end of the business of an electronic working group, the secretariat of the Host should send a copy of the final conclusions to the Joint FAO/WHO Secretariat.

The conclusions of an electronic working group shall be distributed to Codex Contact Points and observers by the Joint FAO/WHO Secretariat in time to allow full consideration of the electronic working group's recommendations.

The Joint FAO/WHO Secretariat should ensure that these conclusions are included in the distribution of papers for the next session of the Codex Committee.