



Agenda Item 4a

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME
CODEX COMMITTEE ON METHODS OF ANALYSIS AND SAMPLING

Thirty-fourth Session
Budapest, Hungary, 4 - 8 March 2013

PROPOSED DRAFT PRINCIPLES FOR THE USE OF SAMPLING AND TESTING IN
INTERNATIONAL FOOD TRADE

Draft Section on Principles

Comments of European Union, Ghana, Jamaica, Republic of Korea

EUROPEAN UNION

The European Union and its Member States (EUMS) fully support the development of Principles for the Use of Sampling and Testing in International Food Trade.

General comments:

The purpose of the document is to set out principles and guidance on the determination, by sampling and testing, of the conformity of consignments of food in trade to official specifications, and provide guidance for governments on procedures to resolve disputes which may arise between food control authorities about the implications of product test results on the status of a food consignment. The EUMS are convinced that these principles can be useful to Codex members as well as to food business operators, with the objective of improving the safety of food products and avoid trade disruption as a consequence of inappropriate application of sampling and testing procedures. Delays or disputes over sampling and testing often result in spoilage and waste of safe and healthy food products at significant cost to exporters.

Specific comments:

SECTION 1 – INTRODUCTION

The EUMS suggest the following changes to paragraph 1:

1. Sampling and testing procedures are among others- procedures utilized to determine if foods in trade are compliant with particular specifications. ~~These procedures establish the level of protection afforded to exporters and producers, and importers and consumers. The procedures used should be such as to ensure that Consumers' Risk and Producers' Risk are both considered.~~ The absence of defined, scientifically valid procedures could lead to ad hoc practices being used, resulting in inconsistent decisions and an increased occurrence of disputes.

Rationale: This would be in line with what is stated later in paragraph 5. Indeed, sampling and testing are only one of the means that can be used to see whether imported foods comply with the specifications of the importing country. The deletion of the second and third sentence improve clarity.

The EUMS suggest the following change to paragraph 4:

4. Risk management decisions should be commensurate to the assessed risk, and should take into account risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options ~~the economic consequences and feasibility of risk management options. Risks due to conditions during storage and transport should be considered by all business operators in the food distribution chain. In order to achieve this there should be an understanding of the impacts of sampling and testing options on all affected parties. Risk management itself should be a continuing process that takes into account all new information,~~

~~including scientific information, in the evaluation and review of risk management decisions based on sampling and testing.~~

Rationale: The process of risk management is already well defined in existing Codex texts and in the Codex Procedural Manual. As a matter of consistency and as there is no need to re-define the process, the same terminology should be used in this text.

The EUMS suggest the following change to paragraph 6:

6. This document does not affect existing ~~Codex limits or the current way of setting those limits.~~ These responsibilities set out in **Codex** Committees' terms of reference.

Rationale: The changes improve clarity.

SECTION 2 – SCOPE

The EUMS suggest the deletion of paragraph 8:

~~8. These principles do not:~~

- ~~a) address other uses of sampling and testing;~~
- ~~b) address other means of establishing that foods in trade meet specifications;~~
- ~~c) give guidance on choosing appropriate levels of Consumers' Risk and Producers' Risk.~~

Rationale: The scope should refer to what the document is about, not to what it does not cover.

SECTION 3 – DEFINITIONS

The EUMS suggest deletion of Consumers' Risk and Producers' Risk.

Rationale: As this terminology would not appear in the text, there is no need to refer to its definition.

SECTION 4 - PRINCIPLES

Principle 4: Consumers' Risk and Producers' Risk

The EUMS suggest deleting principle 4.

Principle 4: Consumers' Risk and Producers' Risk

~~Whenever food is sampled and tested, the probability of wrongly accepting or wrongly rejecting a lot or consignment affects both exporters and importers and can never be entirely eliminated. The Consumers' Risk and Producers' Risk should be evaluated and controlled, preferably using methodology described in internationally recognized standards.~~

Rationale: This principle is already covered by the Codex Guidelines for Food Import Control Systems (CAC/GL 47-2003).

GHANA

Specific Comment

Section 1 Introduction

Comment 1: Paragraph 2, sentence 3, Ghana proposes that the sentence should be rephrased to read “As for **The** methods of analysis, ~~those~~ endorsed by Codex should be considered first.”

Rationale: For clarity

Comment 2: Paragraph 4, sentence 4, We suggest that the word “itself” is deleted.

“Risk management ~~itself~~ should be a continuing process that takes into account all new information, including scientific information,..... ”

Rationale: Its presence is superfluous.

Section 4 Principles

Comment 3: Ghana suggests merging principles 5,6,7 and 8 under the heading of principle 5 as described below:

Principle 5: Selecting appropriate sampling and testing procedures

The sampling and testing procedures selected should

- be scientifically based and appropriate to the commodity and lot or consignment to be sampled and tested. It should be fit for the intended purposes and applied consistently.
- take into account practical matters such as cost and timeliness of the assessment and access to lots or consignments, provided that Consumers' Risk and **Producers' Risk** are not compromised.
- take into account analytical measurement uncertainty and its implications.
- take into account the potential variations within a lot or consignment.

Rationale: Principles 5, 6, 7 and 8 address similar issues under appropriate sampling and testing procedures.

Comment 4: We suggest the text “Producers’ Risk” be included in the bullet 2 (former Principle 6) so that it is consistent with other sections of the document.

JAMAICA

General comments

Jamaica finds this document to be appropriate and relevant to countries participating in international trade.

Specific comments

Section 2 – Scope

Jamaica believes that paragraph 7 clearly defines the scope. Therefore, paragraph 8 could be considered as a disclaimer for the Draft Principles.

REPUBLIC OF KOREA

(1) Principle 1: Agreements before initiating trade

The Republic of Korea has a concern over comments made by Hungary, which is about reserve sample in preparation of potential conflicts subsequently following a sampling prior to shipment.

- *Specifications regarding the retention of reserve samples by the importing country for the purposes of resolving disputes*

~~[Hungary: reserve sample(s) should be taken before the shipment and stored by the exporter(supplier). Alternately an A/RL could also be specified and applied at the importer side. Good example for this is the EC regulation specifying 50% uncertainty on the results of pesticide residue analysis (lots are rejected if the residue measured in the sample is larger than times the MRL. Ideally, if the A/RL is properly selected at the producer/exporter side no sample taken from a compliant lot should contain residue above the importers A/RL.]~~

Rationale : In many countries including Korea, the government does not conduct sampling or inspection upon every exporting goods. Thus, it is difficult for the exporting country and the importing country to clearly specify or agree upon sample identification, the allocation of the responsibility for sample preservation and/or the method of sampling.

Moreover, in the event where trading nations disagree on sampling or analysis, such disagreement may be resolved in accordance with ‘*Dispute Settlement Guideline*’ of CCMAS.

(2) Principle 2: Transparency

The Republic of Korea do not agree with Cuban comments stating that exporting and importing countries shall apply on the identical sampling procedure and portions to the lot, consignment, container, freight and production day.

[CUBA: In order to minimize the inconveniences that can be caused by the application of different ways to identify production lots or consignments in the original country (exporter) with respect to inspected lots or consignments in the destination country (importer), which becomes frequently, a serious problem, ~~the exporter and the importer should apply the same sampling procedures, to the same portions of the commodity (lot, consignment, container, hold of ship, production date, etc.) and identical or equivalent testing methods must be used.~~ These situations should be very well stated and clarified in the previous agreements before initiating trade to make possible the quality results' comparison of commodities produced in origin and inspected in destination.]

Rationale : Comments made by Cuba is not relevant to the matter of transparency. Furthermore, it does not conform with *General Guideline on Sampling*(CAC/GL 50-2004), which stipulates that the selection of sampling plan is subject to the responsibility of the importing nation if exporting and importing nations fails to reach an agreement after an agreement between the two countries upon sampling is first recommended.

(3) Principle 4: Consumers' Risk and Producers' Risk

The Republic of Korea requests to delete the principle 4.

Rationale : This principle must conform to the principles developed by CCFICS, and it should be reviewed in order to prevent repetitious work. In the event where a conflict arises between the producer's risk in exporting country and the consumer's risk in importing country, it may be resolved in accordance with '*Dispute Settlement Guideline*' of CCMAS.

However, if this principle 4 could not be deleted, the Republic of Korea suggests that presented comment can be changed as following.

An importing country's overall risk management strategy, of which sampling and testing at the border is one of a number of measures used to manage risk, may take account of the exporting country's risk management strategy

Rationale : Importing country is responsible for protecting consumers by its risk management strategy. Importing country may consider the strategy developed by exporting country when necessary.