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REPORT OF THE THIRD SESSION

OF THE

CODEX COMMITTEE ON GENERAL PRINCIPLES

Paris, 9-13 December 1968

JOINT FAO/WHO FOOD STANDARDS PROGRAMMECODEX COMMITTEE ON GENERAL PRINCIPLES

Report of the Third Session, 9-13 December 1968

Introduction

1. The Third Session of the Codex Committee on General Principles was held in Paris from 9 to 13 December 1968 under the chairmanship of Mr. R. Souverain (France). The session was attended by 79 delegates and observers from 25 countries and 12 international organizations. The list of participants is attached as Appendix I.

2. The session was opened by Professor M. Cépède, President of the Interministerial Committee on Agriculture and Food, who welcomed the participants in the presence of Mr. Bernard Toussaint, representing the Ministry of Foreign Affairs.

Adoption of Agenda

3. After slight rearrangement of the order of items the Committee adopted the provisional agenda.

The Idea of a General Standard

4. The Committee considered the paper which had been presented by the United Kingdom delegation on this subject (ref. SP 10/3-GS) in the light of government comments (ref. PG 68/1 and Addenda 1, 2 and 3). Though some delegations considered that a general standard should be elaborated, others thought that the basic concepts suggested for inclusion in a general standard were already contained in the food legislation of many countries and there would be difficulty for legal and other reasons in applying the Codex acceptance procedures to such a standard. The delegations which were not in favour of a general standard but who considered that some provisions of this sort should be included in the Codex Alimentarius suggested that they should be contained either in

- (i) a preamble to the General Principles of the Codex Alimentarius, or
- (ii) an additional paragraph in the General Principles, or
- (iii) in a separate part or preamble to the Codex Alimentarius on the lines of the Code of Principles concerning Milk and Milk Products.

5. After some consideration of the suggested amendments to the proposed provisions set out in paragraph 6 of the United Kingdom paper (ref. SP 10/3-GS), the Committee decided that the Secretariat should draw up a paper for the next session of the Commission, setting out the general issues involved to enable the Commission to determine how best to proceed with this subject.

### Acceptance with minor deviations

6. The meaning of acceptance with minor deviations was referred to the Committee by the Codex Alimentarius Commission with a view to clarifying its meaning within the overall concept of acceptance and in the light of comments (ref. PG 68/2 and Addendum 1) received from governments. In examining the text of acceptance with minor deviations, two broad points of view emerged. Some delegations took the view that only full acceptance and target acceptance could properly be regarded as forms of acceptance. Other delegations thought that the acceptance procedure should provide for acceptance with minor deviations whether these took the form of more stringent, less stringent or supplementary requirements. This was the majority view of the Committee, it being understood that it would be up to the Commission to determine whether any deviation was in fact minor, and the country concerned could state its position concerning the Commission's decision.

7. The Committee decided to delete the provision on acceptance with a declaration of more stringent or supplementary requirements from paragraph 4 of the General Principles of the Codex Alimentarius. The Committee further decided to retain acceptance with minor deviations along the lines of the written proposal of the Danish delegation. This provision would provide for the inclusion of all types of deviation if these were judged to be minor by the Commission. The Committee agreed to the revised text of paragraph 4 of the General Principles as set out in Appendix II for submission to the Sixth Session of the Commission.

8. The Committee agreed that, until further reviewed by the Commission, the acceptance procedure should be applied on a provisional basis in order that its suitability might be assessed in the light of experience of receiving acceptances.

9. Certain delegations pointed out that there were difficulties in interpreting Steps 9 and 10 of the Procedure for the Elaboration of Codex Standards and that these difficulties must be dealt with before standards were sent out for acceptance. The main difficulties appeared to be

- (i) how could a standard which had received the final approval of the Commission be properly described as "provisional";
- (ii) what is the implication of printing a standard in the Codex Alimentarius; and
- (iii) what would constitute "a sufficient number of countries".

Some delegations pointed out that there might be difficulties in accepting a standard under their legal and administrative procedures without some indication of the action that other countries proposed to take in respect of the standard concerned, and this suggested that some revision of Steps 9 and 10 might be desirable. In view of this, the Commission's Secretariat was requested to prepare a paper for the Sixth Session of the Commission setting out the difficulties and putting forward suggestions for dealing with them.

10. The delegation of the United States pointed out that the purpose of Codex standards was to achieve uniformity among national food standards so as to protect the health of consumers and to facilitate international trade. This would be achieved not by replacing national food standards but by harmonizing them. The U.S.A. would be likely to indicate acceptance of Codex standards by informing the Commission that it had issued identical or similar standards under its national laws and regulations; there was no question of a Codex standard being the equivalent of an international convention or treaty. The point of view expressed by the U.S. delegation was shared in principle by some other delegations.

#### Acceptance of general standards

11. The Committee had before it a paper (ref. PG/68/3) which had been prepared by the Commission's Secretariat at the request of the Executive Committee. It was pointed out that there might be standards of a general nature for which the acceptance procedure already proposed would not be appropriate since these general standards would only apply to certain aspects of a food and therefore full acceptance would not imply that a product which complied with the general standard could be freely distributed in the territory of the country concerned.

12. Some delegations considered that it was premature to develop such a procedure before any general standards had been completed, but other delegations thought that difficulties would occur if a procedure was not elaborated before general standards were considered by the Commission at Step 8 of the Procedure for the Elaboration of Codex Standards. The delegate of Austria considered that the problem of acceptance of general standards did not require a separate acceptance procedure but could be dealt with by applying the acceptance procedure already agreed for commodity standards to the acceptance of general standards mutatis mutandis.

13. After a full discussion, the Committee concluded that the Acceptance Procedure for General Standards, as set out in Appendix II, should be submitted to the Commission as a new paragraph 5 of the General Principles of the Codex Alimentarius. The Committee agreed that this procedure should be applied on a provisional basis and that the Commission should decide in respect of each standard of a general nature whether the acceptance procedure for general standards or the acceptance procedure for commodity standards should apply.

14. The delegation of the Federal Republic of Germany took the view that further consideration of the whole acceptance procedure was required, and in particular to the exact definition from the practical and legal points of view of the different methods of acceptance. Further consideration should also be given to the legal aspects of the General Principles of the Codex Alimentarius and the way they were adopted by the Commission.

#### Uniform interpretation of acceptance

15. The Codex Committee on General Principles examined a paper (ref. PG/68/4) which had been prepared by the Commission's Secretariat concerning some of the difficulties which might arise in endeavouring to

ensure a uniform interpretation of acceptances by countries of Codex standards. The Committee considered that in the absence of actual experience of acceptances of Codex standards it would suffice for the time being if the Secretariat of the Commission, where appropriate, referred government communications concerning acceptance to the Executive Committee. The Executive Committee would make recommendations on the interpretation of these acceptances for consideration by the Commission at its next session. The Commission should consider the state of acceptances at each session and decide on points of difficulty.

Revisions and amendments of accepted Codex standards,

16. The Committee considered a paper (ref. PG/68/5) prepared by the Commission's Secretariat containing a proposal explaining the likely procedure to be followed under paragraph 4 of the Introduction to the Procedure for the Elaboration of Codex Standards for the consideration of an amendment or revision of a Codex standard by the Commission. Some delegations proposed that a separate procedure for the revision or amendment of Codex standards should be elaborated. The Committee decided that it would be premature to try to elaborate such a procedure before any Codex standards had been accepted. The Committee considered that paragraph 4 of the Introduction to the Procedure for the Elaboration of Codex Standards would suffice for the time being, but thought that the Commission might find advantage in having guidelines which would indicate the procedure to be followed in accordance with paragraph 4. The Committee agreed that proposals for revision needed to be submitted to the Commission's Secretariat by Member Countries or Codex Commodity Committees in good time before a session of the Commission so that the Commission could decide whether a revision was necessary. When it was agreed that a standard should be revised, the unrevised standard would remain the Codex standard until the revised standard had been adopted by the Commission. The Secretariat was requested to prepare for the next session of the Commission a paper which would cover this point as well as the procedure recommended by the Executive Committee (ref. ALINORM 69/3, paragraphs 22-27) for the consideration by the Commission of standards at Step 8. The paper should also deal with the matters contained in paragraph 9 of this report concerning Steps 9 and 10.

17. The Committee considered a proposal of the Netherlands delegation that the Commission should, in any event, consider at regular intervals whether or not a Codex standard should be revised. The intention behind the proposal was to ensure that revisions were always considered after an appropriate interval. This procedure would also have the advantage of discouraging too frequent changes in Codex standards. In discussion, it was pointed out that it might be better not to have a fixed interval after which revision was considered, but rather to rely on the obligation of the Commission to keep the revision of Codex standards under review as laid down in paragraph 4 of the Introduction of the Procedure for the Elaboration of Codex Standards. Though there was considerable support for the proposal of the Netherlands, the Committee decided not to proceed with it.

Problems associated with withdrawal of acceptance

18. The Committee considered a paper (ref. PG/68/6) prepared by the Commission's Secretariat. The Committee agreed that a reference to the withdrawal or amendment of acceptance should be included in the General Principles of the Codex Alimentarius but that it would not be practicable to lay down a fixed period of notice which had to be given before the withdrawal or amendment took effect. It was regarded as desirable, however, that as long a period of notice as practicable should be given.

19. The Committee agreed that the following text should be submitted to the Sixth Session of the Commission:

"The withdrawal or amendment of acceptance of a Codex standard by a country shall be notified in writing to the Codex Alimentarius Commission's Secretariat who will inform all Member States and Associate Members of FAO and WHO of the notification and its date of receipt. The country concerned should provide the information required under paragraph 4.A(iii), 5.A(iii), 4.B or 5.B above, whichever is appropriate. It should also give as long a notice of the withdrawal or amendment as is practicable."

Amendments to the General Principles of the Codex Alimentarius

20. The Committee discussed two papers (ALINORM 68/9(1) and 9(2)) presented by the French delegation which proposed certain amendments to the present text of the paragraphs of the General Principles of the Codex Alimentarius on the Purpose, Scope and Nature of the Codex Alimentarius. The Committee considered that it would not be prudent to make a definite amendment in respect of codes of practice before the Commission had received legal advice on the status of codes of practice as envisaged in paragraph 46 of the Report of the Fifth Session of the Commission. They considered, however, that provision should be made in the General Principles in respect of codes of practice and other matters of general scope and that the Commission's Secretariat should present to the Commission at its next session an amendment to the General Principles of the Codex Alimentarius which would incorporate the intention of the French delegation's proposed amendment to the 'Purpose of the Codex Alimentarius'. The Committee also noted that a paragraph would need to be included in the Introduction to the Procedure for the Elaboration of Codex Standards to deal with the procedure for elaborating codes of practice which had already been agreed by the Commission (see paragraph 48 of the Report of the Fifth Session of the Codex Alimentarius Commission).

21. The Committee considered that, subject to any amendment proposed by the Commission's Secretariat in pursuance of paragraph 20 above, the present text of the 'Scope of the Codex Alimentarius' was satisfactory with the following small amendments:

- (a) In the first sentence, substitute 'The Codex Alimentarius should include standards ...' for 'The Codex Alimentarius is to include standards ...'.

(b) In the third sentence, substitute 'The Codex Alimentarius should include provisions ...' for 'The Codex Alimentarius is to include provisions ...'.

22. On the 'Nature of Codex Standards' the Committee decided to recommend that the second paragraph be deleted and replaced by the following:

'A Codex standard for any food or foods should therefore be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.'

This amendment would avoid any danger of contradiction between the General Principles and the Format.

23. The Committee noted that the amendment proposed by the French delegation to paragraph 4.C(ii) of the General Principles had already been accepted by the Commission and included in the General Principles.

24. The Committee also considered the proposal of the French delegation that the following words should be added to the General Principles of the Codex Alimentarius:

"The label attached to a product offered for sale as conforming to the Codex, whether home-produced or imported, should always bear the following notice written immediately after the designation: 'Conforms to the Codex Alimentarius'."

Some delegations considered that this proposal was within the competence of the Codex Committee on Food Labelling rather than that of the Committee on General Principles. Other delegations considered that serious practical difficulties would result from such a provision. The Committee agreed that it was too early to reach a final decision on the proposal, but that it should be considered when a number of standards had been sent to governments for acceptance.

#### Definitions

25. The Committee took note of definitions covering use of the term 'food additive', which had been agreed upon by the Codex Committees on Food Additives and Food Labelling (ref. CX 4/10.3). The Committee agreed that the definitions should be submitted to the next session of the Codex Alimentarius Commission for adoption for use in the Codex Alimentarius.

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GENERAL PRINCIPLES OF THE CODEX ALIMENTARIUSAcceptance of Codex Commodity Standards

4.A A Codex standard may be accepted by a country in accordance with its established legal and administrative procedures in respect of distribution of the product concerned, whether imported or home-produced, within its territorial jurisdiction in the following ways:

(i) Full acceptance

Full acceptance means that the country concerned will ensure that a product to which the standard applies will be permitted to be distributed freely within its territorial jurisdiction under the name and description laid down in the standard, provided that it complies with all the relevant requirements of the standard. The country will also ensure that products not complying with the standard will not be permitted to be distributed under the name and description laid down in the standard. It also means that the distribution of any sound products conforming with the standard will not be hindered by any legal or administrative provisions in the country concerned relating to the health of the consumer or to other food standard matters except for considerations of human, plant or animal health which are not specifically dealt with in the standard.

(ii) Target acceptance

Target acceptance means that the country concerned indicates its intention to accept the standard after a stated number of years and will meanwhile not hinder within its territorial jurisdiction the distribution of any sound products conforming with the standard by any legal or administrative provisions relating to the health of the consumer or to other food standard matters except for considerations of human, plant or animal health which are not specifically dealt with in the standard.

(iii) Acceptance with minor deviations

Acceptance with minor deviations means that the country concerned gives full acceptance as defined in paragraph 4.A(i) to the standard with the exception of minor deviations which are recognized as such by the Codex Alimentarius Commission; it being understood that a product complying with the standard as qualified by such minor deviations will be permitted to be distributed freely within the territorial jurisdiction of the country concerned. The country concerned will further include in its declaration of acceptance a statement of such deviations, the reasons for them, and also indicate:

- (a) whether products fully conforming to the standard may be distributed freely within its territorial jurisdiction in accordance with paragraph 4.A(i);
- (b) whether it expects to be able to give full acceptance to the standard and, if so, when.

B. A country which considers that it cannot accept the standard in any of the ways mentioned above should indicate:

- (i) whether products conforming to the standard may be distributed freely within its territorial jurisdiction;
- (ii) in what ways its present or proposed requirements differ from the standard, and, if possible, the reasons for these differences.

- C.
- (i) A country which accepts a Codex standard according to one of the provisions of 4.A is responsible for the uniform and impartial application of the provisions of the standard as they apply to all home-produced and imported products distributed within its territorial jurisdiction. In addition, the country should be prepared to offer advice and guidance to exporters and processors of products for export to promote understanding of and compliance with the requirements of importing countries which have accepted a Codex standard according to one of the provisions of 4.A.
  - (ii) Where, in an importing country, a product claimed to be in compliance with a Codex standard is found not to be in compliance with that standard, whether in respect of the label accompanying the product or otherwise, the importing country should inform the competent authorities in the exporting country of all the relevant facts and in particular the details of the origin of the product in question (name and address of the exporter), if it is thought that a person in the exporting country is responsible for such non-compliance.

#### Acceptance of Codex General Standards

5.A A Codex general standard may be accepted by a country in accordance with its established legal and administrative procedures in respect of the distribution of products to which the general standard applies, whether imported or home-produced, within its territorial jurisdiction in the following ways:

(i) Full acceptance

Full acceptance of a general standard means that the country concerned will ensure that a product to which the general standard applies will comply with all the relevant requirements of the general standard except as otherwise provided in a Codex commodity standard.

(ii) Target acceptance

Target acceptance means that the country concerned indicates its intention to accept the general standard after a stated number of years.

(iii) Acceptance with minor deviations

Acceptance with minor deviations means that the country concerned gives full acceptance as defined in paragraph 5.A(i) to the general standard with the exception of minor deviations which are recognized as such by the Codex Alimentarius Commission. The country concerned will include in its declaration of acceptance a statement of such deviations, the reasons for them, and also indicate whether it expects to be able to give full acceptance to the general standard and, if so, when.

- B. A country which considers that it cannot accept the general standard in any of the ways mentioned above should indicate in what ways its present or proposed requirements differ from the general standard, and, if possible, the reasons for these differences.
- C. (i) A country which accepts a general standard according to one of the provisions of paragraph 5.A is responsible for the uniform and impartial application of the provisions of the standard as they apply to all home-produced and imported products distributed within its territorial jurisdiction. In addition, the country should be prepared to offer advice and guidance to exporters and processors of products for export to promote understanding of and compliance with the requirements of importing countries which have accepted a general standard according to one of the provisions of paragraph 5.A.
- (ii) Where, in an importing country, a product claimed to be in compliance with a general standard is found not to be in compliance with that standard, whether in respect of the label accompanying the product or otherwise, the importing country should inform the competent authorities in the exporting country of all the relevant facts and in particular the details of the origin of the product in question (name and address of the exporter), if it is thought that a person in the exporting country is responsible for such non-compliance.