

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Items 3 and 6

GP/31 CRD/10

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON GENERAL PRINCIPLES

Thirty-first Session

Bordeaux, France, 11 - 15 March 2019

Possible future procedural work: Amendments and Revisions

(Comments from the Codex Secretariat)

CODEX SECRETARIAT

1. Background

1.1 When developing recent documents for the CCGP and CCEXEC, the Secretariat also reviewed the "Guide to the Procedure for the Amendment and Revision of Codex Standards and Related Texts" contained in Section II of the Codex PM, hereafter called the "Guide".

1.2 Amendments and revisions are also mentioned in paragraph 8 of the introduction to the *Procedures for the Elaboration of Codex Standards and Related Texts*, which states that except for editorial amendments and amendments of a consequential nature, Codex should follow the same process as for the elaboration of new standards. Changes to numerical values in Codex standards are mentioned in paragraph 4 of *Part 2 Critical Review* of the elaboration procedure and shall follow the procedures established by the Committees concerned.

1.3 The Guide gives additional guidance to paragraph 8 mentioned in 1.2 above on how to classify amendments and revisions, who requests them and how they can be adopted.

1.4 It is the Secretariat's opinion that the Guide contains some interesting concepts, which might be less known and could also benefit from clarification. There could also be benefit in reviewing the necessity of distinguishing between "amendments" and "revisions". The purpose of this CRD is to raise awareness about the Guide and – time permitting – discuss if there is interest in working on improving it.

1.5 The Guide does not mention when and how often to review existing Codex texts. This will be the subject of a secretariat paper on a "systematic review" prepared for CCEXEC77.

2. Amendment vs revision; editorial vs substantive

This section analyzes paragraphs 1-3 of the Guide.

2.1 The Guide distinguishes between amendments and revisions.

2.2 Amendments can be editorial or substantive and affect a *limited* number of articles in a Codex text. The meaning of "limited" is not further explained in the Guide.

2.3 The Guide mentions as editorial the following non-exhaustive list:

- correction of an error;
- insertion of an explanatory footnote;
- updating of references consequential to the adoption, amendment or revision of Codex standards and other texts of general applicability, including the provisions in the Procedural Manual;
- finalization or updating of methods of analysis and sampling as well as alignment of provisions, for consistency, to those in similar standards or related texts adopted by the Commission.

2.4 The Guide mentions that what does not fall under amendment is considered a revision and that the Commission decides ultimately whether a change is considered an amendment or a revision, substantive or editorial.

2.5 *Issues with the present system*

2.5.1 The Secretariat is of the opinion that there is merit in distinguishing between editorial and substantive changes. Attempting to distinguish between amendments and revisions does not seem to add clarity. Both are substantive but their distinction is not clear. What is a *limited* number of paragraphs? Is the addition of a new product to a group standard a revision or an amendment? What if at the same time a change is made to another product in the group standard – is that a separate amendment/revision. Subsidiary bodies seem to have handled this question inconsistently as no clear guidance exists. The Secretariat therefore questions the need to distinguish between amendments and revisions.

2.5.2 The Secretariat believes that it is important for Members to be able to track what has changed in a standard and whether the change was editorial or substantive rather than knowing if something has been “considered” a revision or amendment. If members agree, the following proposal could be further elaborated and discussed and ultimately proposed to the Commission for endorsement.

2.6 *Proposal for a possible new numbering system*

2.6.1 *Version number*

- Each Codex text is assigned a version number consisting of two figures. The first figure tracks substantive changes to the text, the second tracks those editorial changes that are valid in all languages.
- A newly adopted standard would have the version number 1.0. A standard with one substantive change and one editorial change would have the version number 2.1. Hereby it would be irrelevant if the change is regarding one or many paragraphs of the text.
- Changes to language/translation only would only be tracked in the version history but not affect the version number.

2.6.2 *Version history*

- Each Codex text has a version history attached, which summarizes what changed from the previous version. From the history it should be clear how extensive a change was and why it was made.
- Changes to language (which could be unique to one or several language versions) would also be included in the version history.

3. **Submitting proposals for revision/amendment and further discussion and decisions**

The following paragraphs analyze the provisions contained in paragraphs 4-6 of the Guide.

3.1 *A relevant active subsidiary body exists and agrees to propose an amendment/revision*

3.1.1 Editorial amendments do not need a project document and may be adopted by CAC at step 8 (these are usually included in a secretariat document to CAC)

3.1.2 Substantive amendments/revisions that do not require a project document may be forwarded to the CAC for adoption at step 5 or 5/8¹.

3.1.3 Substantive amendments/revisions that require a project document will go through the critical review of the CCEXEC, approved by the Commission as new work and referred for consideration to the appropriate subsidiary body.

3.1.4 Questions regarding the provisions

- Is the above interpretation correct and useful?
- Is more guidance needed as to when a project document is required?
- Can the secretariat or a member directly submit a proposal for amendment (editorial or substantive) or does this have to go always through the relevant body concerned? If the Secretariat or a member can propose an amendment what should be the rules for it?

3.2 *No relevant subsidiary body exists and is active*

Where Codex subsidiary bodies have been abolished or dissolved, or Codex committees have been adjourned *sine die*, the Secretariat keeps under review all Codex standards and related texts elaborated by these bodies and determines the need for any amendments, in particular those arising from decisions of the Commission.

¹ 5/8 is not contained in the present version of the PM but was in the original proposal (CCGP24) and omitted in the relevant appendix to ALINORM 07/30/REP-Appendix III

3.2.1 *Editorial amendments*

- The Secretariat prepares proposed amendments for consideration and adoption by the Commission at step 8 together with those coming from 3.1 or received from members.

3.2.2 *Substantive amendments*

- The Secretariat, in cooperation with the national secretariat of the adjourned Committee if applicable, prepares a working paper (circular letter) containing the reasons for proposing amendments and the wording of such amendments as appropriate, and request comments from members of the Commission:
 - (a) On the need for such an amendment and
 - (b) On the proposed amendment itself.
- The document may also include proposals directly received from members (if received 3 months before the relevant CAC session).
- If the majority of the replies received from members of the Commission is affirmative on both the need to amend the standard and the suitability of the proposed wording for the amendment or an alternative proposed wording, the proposal should be submitted to the Commission for consideration and adoption.
- In cases where replies do not appear to offer an uncontroversial solution then the Commission should be informed accordingly and it would be for the Commission to determine how best to proceed.

3.2.3 *Questions regarding the provisions*

- Is the above interpretation correct and useful?
- The procedure in 3.3.2 is replacing the physical discussion of proposals in a committee by written consultation and is as such a consultation by correspondence. There are no records if this procedure has been used.
- Do Members think that this procedure could be interesting for the amendment/revision of standards of adjourned committees?