

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX ALIMENTARIUS COMMISSION

Twenty-sixth Session, FAO Headquarters, Rome (Italy), 30 June – 7 July 2003

JOINT FAO/WHO EVALUATION OF THE CODEX ALIMENTARIUS AND OTHER FAO AND WHO WORK ON FOOD STANDARDS

Comments received in response to Circular Letter 2003/8-CAC

Part 3: Late Comments

Codex Circular Letter 2003/8-CAC requested comments on the report of the Evaluation by 31 March 2003. This documents contains comments received after that date.

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**EGYPTIAN ORGANIZATION FOR
STANDARDIZATION & QUALITY
CONTROL (EOS)
PRESIDENT**

Secretary, Codex Alimentarius Commission
Rome – ITALY

In reference to the recommendations of the 25th (extraordinary) session of the Codex Alimentarius Commission which was held in Geneva, Switzerland, 13-15 February 2003.

I have the honour to attach herewith the comments of the Arab Republic of Egypt on the conclusions and recommendations contained in the draft report of the Joint FAO/WHO evaluation of the codex alimentarius and other FAO and WHO work on food standards.

I would be most grateful to you if you can make the documents, related to the evaluation which will be prepared by the Technical Secretariat of the Codex Alimentarius, available in due time to be able to consider them before their submission to the meetings of the Executive Committee and the Codex Alimentarius Commission in June 2003.

Accept the expression of my highest consideration.

Sealed & Signed
PRESIDENT
Dr. Eng. Mahmood Issa

**Comments of the Arab Republic of Egypt
On the conclusions of the Evaluation Team**

- The Codex food standards are extremely important to member states and represent a key element in food control systems to protect consumer health and ensure fair practices in international trade.

Therefore, Codex should undertake a regular reviews of these standards and establish international standards for food products not covered by existing standards, in order to include the entire industry, while giving priority to standards relating to consumer health protection, taking into consideration the needs of developing countries.

- Increasing the support of FAO/WHO to member states, in particular developing countries, and their participation in the Codex in the decision-making process in order to protect their citizens and effectively represent their interests in the Codex Alimentarius.
- Intensifying Codex efforts to establish guidelines for the acceptable levels of protection which can be used by risk assessors to give scientific advice to the committees and to reduce conflicts within WTO.
- There needs to be a clear distinction between the risk management functions and the risk assessment functions in order to provide more transparent and effective scientific advice and to accelerate decision-making.
- Simplifying current procedures and reducing standard-setting steps from 8 to 5 steps for all kinds of standards.
- Supporting decision-taking through consensus as much as possible and considering the consultative voting system by electronic mail as a means to ensure comprehensiveness and legitimacy.
- Supporting and increasing the efficiency of the Codex website to facilitate members' access to all documents related to the Codex work to be able to consider them and express their views thereto.
- Ensuring more autonomy for Codex and facilitating its access to the necessary scientific advice.
- Pursuing the establishment of a trust fund as a tool to increase the participation of all countries, in particular developing countries, in Codex activities.
- Establishing a timetable for Codex programmes, especially those related to international standards and accelerating their adoption.
- Focusing on increasing the participation of members in the Codex Alimentarius especially the developing countries, in all stages of standards elaboration.
- Focusing on increasing the efficiency and speed of the Codex standard-setting process while ensuring transparency and comprehensiveness throughout the process.
- Increasing and promoting positive and efficient cooperation and participation between Codex Alimentarius, intergovernmental organizations, and non-governmental organizations in particular on issues related to Codex activities also of interest to these organizations; this would ultimately have a positive effect on subsequent science-based decisions.
- We recommend Codex to pay due attention to any defects in products and to insect prevalence, in addition to public health issues.

- Giving priority also to food flows in international trade when formulating Codex standard-setting programmes.
- Sticking to the number of representatives of the industry in the establishment of the proposed Executive Board.
- Concerning the proposal to establish an Executive Board and a Standards Management Committee, the Codex is recommended to hold biennial meetings so as to reduce costs. However, the Executive Board and the Standards Management Committee should perform their duties to the full and developing countries should be fairly represented in that committee.
- The chairperson of the subcommittee of the main Codex committee should not necessarily be from the host country but should have the adequate competence and qualifications to act as a chair.
- Given the increasing importance of microbiological risks, there needs to be a permanent committee on microbiological risks, while ensuring the adequate resources to undertake its work.
- Improving the technical secretariat of Codex and creating a joint coordinator post hosted by WHO, in order to address any questions or concerns from member states concerning any emerging scientific problems.
- WHO should collect data on health-related food risks and monitoring studies for food-transmitted diseases. Also, WHO should assist in the elaboration of studies on health economics related to food-transmitted diseases.

CX 2/7.2 (25th)


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Warsaw, 06.06.2003

ESN REC'D - 6 JUN 2003

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ACTION COMPLETED <input type="checkbox"/>			
ACKNOWLEDGED <input type="checkbox"/> NO ACTION <input checked="" type="checkbox"/>			
REFERRED TO:	ACT	INF	INITIALS AND DATE
<i>Randell</i>			

According to your request for comments on the Report of the *Joint FAO/WHO Evaluation of Codex Alimentarius and Other FAO and WHO Work on Food Standards* I have pleasure to forward Polish position to the recommendations in the areas mentioned in the CL 2003/8-CAC:

- Review of the Codex Committee structure and mandates of Codex Committees and Task Forces, including Regional Committees (Recommendations: 16, 17)

Poland supports review of the work and current mandates of all Codex committees, including Regional Committees and Task Forces.

- Review of the functions of the Executive Committee (Recommendations: 9, 10)

Poland considers that there is no need for replacement of the Executive Committee with the Executive Board and for a change of current Executive Committee's composition.

- Improved process for standards management (Recommendations: 18, 20, 23, 24)

We agree that the work on standards should not exceed five years, however, the Commission should maintain right to extend this time limit in justified circumstances (*Recommendation 18*).

We also support the need for greater consultation between meetings in the process of developing standards, taking into account written comments and electronic between-session Working Groups (*Recommendation 20*).

Poland is of the opinion that current 8-step procedure should be simplified to a 5-step procedure provided that there is a consensus in step 5 (*Recommendation 23*).

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We fully support position of European Community that Codex should develop a document in which the meaning of consensus in the Commission and Codex Committees would be clearly defined (*Recommendation 24*).

- Review of the Rules of Procedure and other procedural matters (*Recommendations: 22, 27, 28*)

Poland supports development of clear criteria for the selection of chairs and agrees that more emphasis should be placed on the training and assessment of chairs.

We also agree with applying stricter criteria for granting observer status.

- Implementation of other recommendations

Poland fully supports annual meetings of Codex Alimentarius Commission.

ZASTĘPCA GŁÓWNEGO INSPEKTORA

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Bern, April 30 2003

CL 2003/8-CAC on the Joint FAO/WHO Evaluation of the Codex Alimentarius and Other FAO and WHO Work on Food Standards – Comments from Switzerland

Dear Sir,

Switzerland welcomes the opportunity to submit comments on the report on the "Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO Work on Food Standards". We understand that comments should be made on the report of the Evaluation, and based on the comments submitted, the Codex Secretariat will prepare options and strategies for consideration by the 26th session of the Codex Alimentarius Commission for action in the following areas:

- Review of the Codex Committee structure and mandates of Codex Committees and Task Forces, including Regional Committees (Recommendations 16, 17);
- Review of the functions of the Executive Committee (Recommendations 9, 10);
- Improved processes for standards management (Recommendations 18, 20, 23, 24);
- Review of the Rules of Procedure and other procedural matters (Recommendations 8, 22, 23, 24, 26, 27, 28); and
- Implementation of other recommendations not addressed above.

I. GENERAL COMMENTS

Switzerland would like to compliment the Evaluation Team as well as the Expert Panel for the tremendous work that they've accomplished.

Switzerland welcomes the evaluation of the Codex Alimentarius and recognises that in spite of the fact that the evaluation exercise was undertaken in such a short time, it has indeed come up with some very valuable recommendations which, if implemented, should enable Codex to strengthen and expedite its decision-making process. We fully concur with the Evaluation findings that Codex should increase its efficiency and effectiveness in the development of Codex Standards, which are highly

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valued by Codex member countries, as confirmed by the Evaluation findings.

Switzerland believes that the procedure of implementing the outcome of the evaluation should be systematic and transparent. Adequate resources should be given to the Codex Secretariat to enable it to fulfill the mandate given to it by the Codex Alimentarius Commission at its Extraordinary session (Geneva, Switzerland, 13th – 15th February 2003).

Switzerland agrees that high priority should be given to the elaboration of standards having an impact on consumer health and safety. However, we also believe that Codex standards should strive to protect consumers against fraud and from being misled regarding the quality of the food that they purchase. So, in this regard, consumer information is a vital aspect which shouldn't be neglected as it also plays an essential role in food safety and health protection.

Switzerland has reflected deeply on the proposal to amend the mandate of the Codex and has come to the conclusion that Codex' present dual mandate i.e. protecting the health of the consumers and ensuring fair practices in the food trade, should be maintained. In this respect, we agree with both the Executive Committee as well as with the Commission that "the current mandate should be retained but that it might be discussed in the future" (paragraph 14, ALINORM 03/25/5).

We support the recommendation which encourages the collaboration of Codex with other relevant international organisations. Indeed an effective collaboration with relevant international organisations can lead to a more efficient elaboration of Codex Standards whilst avoiding the duplication of efforts and the squandering of valuable financial and human resources. Collaboration may be most efficient if it takes place in a problem oriented manner.

The Evaluation report bears several recommendations under the heading "Management Structure of Codex". One of them is the creation of an Executive Board whose composition would be different from that of the current Executive Committee. Although Switzerland supports the principle of improving the efficiency of the Codex decision-making process, we do have concerns regarding the proposed Executive Board and its functioning. We therefore request that the necessity for the creation of this new body be examined thoroughly by the Commission before any final decision is made.

Another recommendation proposes the creation of a Standards Management Committee. Although Switzerland fully agrees with the observations made by the Evaluators that "the function of ensuring much tighter management of standards development is regarded as especially important for the effectiveness of Codex" (paragraph 13, Executive Summary), Switzerland believes that it would be premature at this stage to decide on the creation of this Standards Management Committee. However, Switzerland fully supports the recommendation of holding annual sessions of the Codex Alimentarius Commission in view of expediting the Codex decision-making process. We hope that the launching of the FAO/WHO Codex Trust Fund will enable developing countries to fully participate in the Codex standards-setting process.

Switzerland fully supports the recommendation which aims at enhancing the executive role of the Codex Secretariat.

As regards the issue of "consensus", Switzerland agrees that Codex Standards should be adopted by

consensus. However, we do not agree with the proposed definition of consensus. We therefore propose that the Codex Committee on General Principles examine this issue at one of its future meetings and that a report be made to the Commission on the outcome of this discussion.

II. SPECIFIC COMMENTS ON THE RECOMMENDATIONS OF THE EVALUATION REPORT OF THE CODEX ALIMENTARIUS

(The numbers refer to the number of the recommendation as given in ALINORM 03/25/3)

CODEX

1. Switzerland fully supports this recommendation, whose objective is the strengthening of the Codex work related to special dietary uses, health claims and nutrients. However, Switzerland believes that consumer information is another vital aspect which shouldn't be neglected together with the objective of ensuring fair practices in the food trade.
2. Switzerland supports the horizontal approach taken by Codex on several issues. However, we still believe that certain commodities still need to be regulated by Codex Standards especially in view of the quality aspects and consumer protection against fraud. We would like to stress once again our belief that consumer information is also of great relevance within Codex. Furthermore, commodity standards are of great importance to ensure fair international food trade practices.
3. Switzerland agrees with the statement that "Standards having an impact on consumer health and safety" should be of high priority for Codex. Therefore, we are convinced that the availability of relevant information is an important factor which enhances consumer health and well being. As regards priorities nos 2 and 3, Switzerland is of the opinion that Codex should develop standards which are of relevance for the international trade based on the criteria laid down in the procedural manual.
4. Switzerland does not support this recommendation. We believe that Codex should pursue its dual objectives of protecting the health of the consumer and ensuring fair trade practices.
5. Switzerland believes that there is no special action necessary in spite of this recommendation. Indeed, current statutes and rules of the Codex Alimentarius as laid down in the Procedural Manual adequately address the issue of the transmission by the Codex Alimentarius Commission of its recommendations to its parent organisations (Statutes: Article 5, Rule VIII: Records and reports).
6. Switzerland does not support this recommendation. Codex is a distinct organisation from the WTO and we believe that Codex should not undertake work to interpret the WTO Agreements.
7. Switzerland supports this recommendation.

8. We agree with the principle that Codex should collaborate with the OIE on matters of common interest and responsibilities in order to avoid the duplication of work and to optimise the use of scarce resources available to both Organisations. However, we believe that this collaboration should be on a case-by-case basis and on issues of relevance to both organisations.
9. Switzerland undoubtedly supports the principle of improving the efficiency of the Codex decision-making process. However, we do have concerns regarding the proposed Executive Board and its functioning. In our opinion, the current Executive Committee should be reformed to ensure a greater transparency of its work.
10. We partly agree with this recommendation. Given the fact that Codex is an intergovernmental organization, it is very difficult for us to imagine that observer representatives will be present in the Executive Board whilst Codex member countries are not at all represented. Codex should rather ensure that the „designated“ Executive Board/Committee members keep in mind the objectives of the Codex in their decision-making process. In-put from all stake-holders should be sought in all cases.
11. Switzerland does not support the setting up of a Standards Management Committee. This Committee would be a „mini-Commission“ thereby increasing the bureaucracy whilst not improving the transparency related to the Codex Standard-setting procedure. Furthermore, the proposal to set up such a Committee did not receive the approval of the majority of the countries which filled in the questionnaire on this particular issue (see footnote 35). We therefore believe that these functions should be performed by the Executive Committee/Board.
12. Switzerland supports the annual meetings of the Codex Alimentarius Commission. We hope that the launching of the Codex Trust Fund will enable more developing countries to attend Codex Committee sessions as well as the sessions of the Codex Alimentarius Commission.
13. Switzerland supports this recommendation.
14. Switzerland supports this recommendation.
15. Switzerland supports this recommendation.
16. Switzerland supports the review of the work and relevance of all Codex Committees and Task Forces. We also fully agree with c) of the full recommendation i.e. that Commodity Committees should work together with relevant horizontal committees on common health issues. This would avoid delay in standard-setting by eliminating the current „back and forth“ procedure which results in unnecessary delays especially if Commodity Committees do not meet on an annual basis.
17. Switzerland supports this recommendation.

18. Switzerland agrees with the principle of increasing the rapidity and efficiency of the Codex. However, in certain cases, it could be justified to take the necessary time in order to develop an internationally accepted Standard which reflects the global evolution.

19. We partially agree to the separation of the risk assessment and risk management tasks. However, it should be made clear that risk management decisions should be based on the risk assessment and take into account other legitimate factors as appropriate. It is recognised that risk analysis is an iterative process, and interaction between risk managers and risk assessors is essential for its practical application and in order to ensure an optimal health protection of the consumer.
20. We agree in principle. However, we are concerned that not all Codex member countries and observer NGOs might have the necessary resources enabling them to fully participate in the Standards drafting process in-between sessions. This proposal will also increase the financial burden of the host countries. We agree with the recommendation of making greater use of internationally recognised NGOs (International Dairy Federation in the Milk Committee, the International Olive Oil Council in the Fats and Oils Committee, etc) in the preliminary standards development. However, we are not in favour of the use of consultants in this process.
21. We do not entirely support this recommendation. Full accounts of the deliberations are important in meeting reports because if the meeting reports only summarise the discussions, there is a great probability that the discussion will be reopened on the points that would have been resolved at the previous meeting session with the risk of slowing down the Standard-setting procedure even further.
22. Although Switzerland fully supports the principle that there should be an improvement in the performance of certain Chairs, we do not believe that this recommendation applies to all chairs. We feel that the designation of Committee chairs should remain a prerogative of the Host country which in turn should ensure that the most efficient and qualified chair is chosen.

We would like to highlight the importance of paragraph 129 on delegations to meetings. Codex should ensure that the heads of delegation clearly and formally (credentials) represent the member government.

23. Switzerland does not see the necessity of establishing an exclusive 5-step procedure since the accelerated procedure exists at present. There is however merit in proposing that the Commission decides upon the cancellation or suspension of work at Step 5 if there are strong reasons to believe that no substantial progress will be made in the elaboration of the standard in the near future.

24. Switzerland supports the principle of decision-making through consensus. However, we do not agree with the proposed definition.
- a) We support the idea that Committees should achieve consensus before passing on standards to the Commission for adoption. In certain cases, however, it could be justified to proceed with the adoption of Standards whilst taking note of the reservations made by the respective countries.
 - b) We agree with the idea, however, it could be an illusion to believe that the facilitators working between sessions will achieve the necessary consensus lacking at the Committee sessions themselves. This procedure would also lack transparency.
 - c) We wonder whether the proposed postal-ballot system will be feasible. Furthermore, countries which would not have attended the meetings may not be fully aware of the discussions which had taken place regarding one proposal or another and might thus not be fully aware of the implications of their decisions.
25. Switzerland does not support this recommendation. This could lead to voting blocks and it would further undermine the purpose of individual member countries participating in the Codex process.
26. We believe that the recommendation made to host countries to hold meetings in developing countries should be considered on a case-by-case basis. Switzerland is in favour of improving the participation of developing countries in the Codex decision-making process and our country hopes that the launching of the Codex Trust Fund will enable more developing countries to participate in Codex committee sessions as well as those of the Commission.
27. a) Switzerland supports an efficient representation of internationally recognised observer organisations within Codex. We therefore are in favour of the establishment of stricter criteria for the granting of observer status in order to ensure that observers are genuinely international.
b) The participation of these organisations in the Executive Board as well as in the Standards Management Committee should await the decision of the setting up of these bodies. However, we do understand that the recommended participation of these organisations in Executive Board Meetings as well as in the meetings of the Standards Management Committee is related to the issue of transparency and not to that of representation.
28. Although Switzerland understands the rationale behind this recommendation, we believe that the criteria for becoming a host country shouldn't lead to an unnecessarily overburdening of the host country. As stated in recommendation 26 above, Switzerland believes that the recommendation made to host countries to hold meetings in developing countries should be considered on a case-by-case basis.
29. We agree with the recommendation that there should be an increase in the resources allowing the upgrading of the Codex web-site. However, we question the conclusion that this should be done "as a matter of urgency".

30. Switzerland does not support the establishment by FAO and Codex of a database of national standards of importance in trade, including their application and methods of analysis. Indeed, the maintenance of such a database would require resources that neither Codex nor its parent-organisations could afford to mobilise. However, we would agree that the Codex website could establish links on existing national websites on Standards. In this context, it should be noted that all Codex Member Countries which are members of the WTO operate an SPS and TBT Enquiry Point, which upon request, provides information on national food legislation.

31. Switzerland supports this recommendation.

RISK ASSESSMENT AND EXPERT ADVICE

32. Switzerland supports the recommendation which aims at the ratification of JEMRA as a permanent committee.
33. Switzerland supports the recommendation which aims at the establishment of a clear budget and human resource allocation for scientific advice and risk assessment.
34. Switzerland agrees with the recommendation that the increased funding of risk assessment be considered as a top priority.
35. Switzerland agrees with the recommendation which aims at increasing the priority given by FAO and WHO to the collection of data covering a much wider range of diets and production processes, including the essential capacity building for the collection of this global data.
36. Switzerland supports this recommendation which aims at making available budgetary provisions for the payment of independent experts undertaking risk assessments. We agree that strict deadlines and quality requirements should be put in place and we suggest the establishment of clear criteria for the selection of these experts.
37. Although Switzerland agrees that consultancy studies and expert consultations are valuable means which could lead to a more effective risk assessment system on which Codex can rely in its risk management process, we believe that it would be premature at this stage to decide on the implementation of this recommendation. Switzerland therefore believes that the decision regarding this recommendation be held in abeyance until the completion of the expert consultation on the work of FAO/WHO Joint Expert Bodies.
38. Although Switzerland sees value in the establishment of a Scientific Committee by FAO and WHO with a view to supporting the Expert advice and Risk assessment process, we are of the opinion that the decision in this regard should be held in abeyance until the completion of the expert consultation on the work of the Joint FAO and WHO Expert Bodies. Furthermore, we believe that careful consideration should be given by FAO and WHO to the decision to set up such a Scientific Committee in order to prevent supplementary bureaucratic activities within the Codex decision-making process.
39. Switzerland is of the opinion that the decision on the recommendation to establish a post of Joint Coordinator for risk assessment, who would be located in the WHO, be held in abeyance until the completion of the expert consultation on the work of FAO/WHO Joint Expert Bodies.
40. Switzerland supports this recommendation which aims at encouraging both the FAO and the WHO to markedly increase their contributions to the Codex Alimentarius.

CAPACITY BUILDING

41. Switzerland concurs with the recommendation that FAO and WHO should agree on principles for coordination and delineation of responsibilities for capacity building regarding Codex activities. Proper coordination should avoid the duplication of efforts and better allocation of valuable and rare resources.

42. Switzerland supports this recommendation in principle. However, we believe that the initial objective of the Codex Trust Fund should be the encouragement of developing country participation within the Codex decision-making process (participation of national delegations in Codex Committee as well as the Codex Alimentarius Commission sessions). We therefore encourage both the WHO and the FAO to coordinate their capacity building activities with other International Organisations active in the field of capacity building e.g. the World Trade Organisation, in order to avoid the allocation of the valuable Trust Fund resources to capacity building activities which could be financed from other channels.

We appreciate the opportunity to comment on the Evaluation Report and we look forward to participating in the discussions on the implementation of the recommendations.

Yours sincerely,

Dr. Urs Klemm, Vice-director
Swiss Federal Office of Public Health
Head, Main Unit Food Safety

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May 19, 2003

Secretary of the Codex Alimentarius Commission
FAO
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0100 Rome, ITALY

Dear Sir:

The Biotechnology Industry Organization (BIO) is an accredited INGO for Codex and we appreciate the opportunity to provide comments on the report entitled ***Report of the Evaluation of the Codex Alimentarius and other FAO and WHO Food Standards Work***. Our comments are for the Commission's consideration for the upcoming meeting of the Codex Alimentarius Commission to be held in Rome, Italy June 30 – July 7, 2003.

General Comments

There are a number of areas in the evaluation report that BIO is in agreement. The evaluation team should be commended for doing a very comprehensive job in a short period of time. The majority of recommendations in the report are directed toward making Codex more efficient and in streamlining management. Many of these recommendations were offered by industry to the evaluation team through the interview process and submission of comments.

Although the evaluation team conducted a very thorough review, members of the team have not been involved with Codex Committee work; therefore, some of the report language fails to take into account sensitivities that exist among participants in the Codex process. Explanatory language does not always correct the interpretation. For example, significant effort is made to comment on what consumers perceive or input in various circumstances. It is unclear who these consumers are and if they represent consumers worldwide. Other INGOs who expend resources to participate in the process should be recognized equally. The "consumer perspective" is not generally science based and is often unrealistic about execution within the food and agriculture chain.

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Specific Comments

Recommendation 1

“The scope of Codex should fully cover health-related aspects of food standards. It will, therefore, need (subject to availability of resources for Codex and expert scientific advice and prioritization on the basis of expert scientific advice as to the importance of alternative risks) to:

- strengthen work on foods for special dietary uses, health claims and nutrient addition; and*
- undertake new work on packaging materials; and on industrial processing agents and bio-agents in foods”*

This recommendation is presented as though the “new work” in packaging and processing agents/bio-agents in foods are related to the first priority which is to fully cover health-related aspects of food standards. Paragraph 61 states that other areas of work (NOT mentioned in the questionnaire-industrial processing agenda and bio-agents in foods) will require significant inputs of expert advice. Why expand the scope to include these when they were not queried? Codex already has enough work to do and other health-related issues are ongoing in several committees.

Recommendation 2

“It is recommended that Codex does not take on additional work in non-health related areas”.

BIO strongly supports this recommendation and believes that without scientific support, the new work recommended under #1, while perhaps interesting scientifically, does not have relevance to the mandate for Codex.

Paragraph 68- “To demonstrate the difficulties than can arise with non-health related standards, one may look at biotechnology (GM) labeling...this particular issue reflects a broader difficulty in international harmonization where cultural differences among countries mean that consumer have different interests and priorities.” This statement clearly articulates how the issue of “Labeling of Foods Derived from Biotechnology (GM Labeling)” does not belong in Codex.

BIO agrees with the assessment and believes that this and other such non health-related standards work should be discontinued in Codex. A mechanism to halt such processes needs to be better formulated. Similarly, the issue of “Procedures for Risk Assessment of Health Risks from Foods Derived from Biotechnology” (Box 2) *does* squarely fit within the mandate of Codex. We have actively supported this work during all sessions of the Ad Hoc Task Force on Biotechnology.

Footnote 28- “It is conceivable that mandatory labeling could be seen as a non-tariff barrier in breach of the TBT Agreement but, in the absence of a challenge, it should be assumed that this is not the case.” One cannot assume that “this is not the case.” Preferable would be the statement, “should not be assumed that this is the case,” a more accurate characterization.

Paragraph 72 clarifies an important distinction within the work of Codex. Codex will work on informational labeling with a higher priority for health-related aspects such as nutritional labeling than for non-health related issues such as country of origin, religious and cultural labeling. BIO strongly agrees with this statement.

Recommendation 3

“In determining its standard-setting work programmed, Codex should prioritize as follows:

- 1) standards having an impact on consumer health and safety;*
- 2) commodity standards responding to the expressed needs of developing countries;*
- 3) commodity standards responding to the expressed needs of developed countries;*
- and*
- 4) informational labeling relating to non-health and non-safety issues.”*

As stated, this is not what is reflected in the comments. The report comments do not suggest these issues should be included in a prioritization. Rather, rank ordering of standards having impact on consumer health and safety, commodity standards with expressed needs - each would be rank ordered. Given markedly and demonstrably limited resources (see paragraph 74 and data provided in Annex 3), non-health and non-safety issues were not expressly queried and should not be recommended for programming at this time.

Recommendation 4

“It is important that a comprehensive and clear mandate be developed for Codex and ratified by the FAO Conference and the World Health Assembly. The mandate should be quite simple, for example:

- The formulation and revision of international standards for food, in collaboration with other appropriate international organizations, with priority to standards for the protection of consumer health while taking into full account the needs of developing countries.”*

The need to develop a clear mandate for future Codex work is demonstrated. BIO supports that goal. However, it is not clear how the process should work with respect to “collaboration with other appropriate international organizations” given that Codex Alimentarius has an historic body of work that is largely distinct from that of other international organizations such as OIE, ISO, and IPPC.

Rather, **Recommendation 8** better articulates the issue; “Codex and OIE should intensify their collaboration to minimize overlaps and avoid gaps in standard setting with:

- a) delineation of work and specific modalities of collaboration should be defined by Codex and OIE within the near future and formalized in a memorandum of understanding;*
- b) where work is in both Organizations' interest it should be pursued through joint task forces.*

Continued close collaboration between Codex and IPPC should also be maintained.”

BIO agrees; intensified collaboration between Codex and the organizations could minimize overlap.

Recommendation 7

“Codex should remain within FAO and WHO but should have more independence, authority and responsibility over priority setting and management of its work programmed. FAO and WHO Governing Bodies should endorse the overall Codex programme of work and the budget on a biennial basis.”

BIO concurs that Codex should remain within FAO and WHO; any change in reporting or administration (increased independence) needs considered crafting in order to be clear about how the new system would work.

In this regard, **Recommendation 31** says, *“FAO and WHO should make a detailed calculation of the incremental cost increases for the Codex secretariat of implementing the agreed recommendations and provide the necessary increased core funding.”*

BIO agrees; however, we believe that the reporting structure, mechanisms of work, and detailed cost estimates should be included as part of the recommendation. Throughout this document are recommendations to increase staffing. In each case the structure needs to be developed, mechanisms for functioning provided, and realistic costs assessed. Some consideration of potential for increased funds would need to be made prior to effecting these major changes.

Recommendations 9-12 will be taken as a whole discussion area.

Recommendation 9

“The Executive Committee should be replaced with an Executive Board, meeting every six months, charged with strategic and managerial responsibility but without the authority to consider standards. The function of the board would be to improve speed and efficiency by assisting the Commission in strategic planning, budgeting and monitoring, including:

- preparation of the work plan and budget and the medium-term plan;*
- make recommendations to improve management and working procedures in Codex, including its committees and task forces; and*

- *monitor and take corrective action for the delivery of the programme of work.”*

Recommendation 10

“The Executive Board should be small and include:

- *2-3 observer representatives for consumers, industry and perhaps primary producers;*
- *formal participation of the Secretary of Codex and FAO and WHO.”*

Recommendation 11 *“The standards development management function should receive much greater attention in Codex and should be delegated from the Commission to a smaller body. In this context, consideration should be given to the creation of a Standards Management Committee to perform functions that otherwise would need to be undertaken in the Executive Board.”*

Recommendation 12 *“It is desirable that the Codex Alimentarius Commission meets every year, but if the Executive Board and possibly Standards Management Committee perform their functions effectively it might be possible to reduce costs by continuing to hold meetings every two years.”*

It would appear that bureaucracy is being added with little change in outcome; changes resulting from these recommendations would require significant increases in resources, time and money.

More specifically:

- An Executive Board (replacing the Executive Committee) would be a management arm with no standards work. It is difficult to see how Codex would be assisted by the changes recommended. ***Strategic planning and budgeting would most logically be performed in concert with the perspective related to standards work that is underway.*** The Board that sets the strategic direction for Codex would have Codex vice chairs and representatives from regions, and three members from civil society. Three members from civil society could not adequately represent the myriad views of INGOs currently participating in Codex. For example, which INGO would be adequate to represent consumers? What INGO could adequately represent the food and agriculture chain? The system by its very design invites criticism.
- A Standards Management Board would set priorities for standards development and other functions not conducted by the Executive Board. (see list paragraph 96). However, separating functions within the current Executive Committee, making two committees adds bureaucracy and increases the burden of work on some committee chairs.
- The issue of transparency is not resolved through this new structure.
- The costs of the new structure would be greater.

- The change in structure would not necessarily facilitate faster work within the Codex; yearly meetings of the CAC already are possible- perhaps the CAC should try yearly meetings for a period before throwing out the existing management structure.

Recommendations 13

“The Codex Secretariat should be able to carry out managerial, strategic and communication functions. To attract someone of the caliber needed to provide continuing executive leadership and support in Codex and manage and motivate the enhanced secretariat, a senior person should be appointed as Executive Secretary. The overall seniority of the secretariat staff should also be raised.

And Recommendation 14

“The Secretariat would better achieve the independent identity, high status and authority it needs by becoming a separate FAO unit rather than continue under the Food and Nutrition Division [Divisions in FAO are also under D2-level employees.]. The Secretariat would continue to report to FAO and WHO but in line with plans to give Codex more independence, the appointment of the secretary would be carried out in consultation with Codex.”

BIO agrees that the level of status of the Codex Secretariat should be raised; we also agree that more staff should be added to support that function. It is unclear, however, how changing the FAO reporting from within the Food and Nutrition Division will provide greater management capabilities. Since Codex is food and nutrition standards, keeping Codex part of that Division would appear to make sense and would afford Codex the opportunity for better coordination of the food and nutrition standards setting function with other food functions within FAO.

Recommendation 15

“As a matter of priority more human and financial resources must be put into the Codex secretariat to enable it adequately to perform existing functions and meet expanding demands.”

BIO agrees that more resources need to be provided the Codex Secretariat. **Paragraph 107** suggests that by providing staff (secondment to FAO and/or Codex), organizations (member countries as well as others- presumably civil society as well) could themselves benefit from the relationship. This raises the issue of transparency as well as who would potentially be appropriate in this role. How would the mutual “benefit” be effected, and how perceived?

Recommendation 17

“Codex should undertake a review of the mandate and work of regional committees within the next two years”.

Regional Committees provide a forum for member governments to coordinate with like economies and agricultures in their regions. No rationale is provided for going beyond what is currently being done within and by Regional Committees. Minimally, Regional Committees should be strengthened. We question the points raised in **paragraph 115** concerning establishing sub-regional structures centered on economically and geographically coherent groups including economic organizations like Mercosur.

Recommendation 25 is that groups with common interests should be encouraged to coordinate their positions. This is what is done within Regional Committees and also informally through a variety of mechanisms outside of Codex Committee meetings. Presenting the information as a group deliberation suggests work needed outside of Codex which would limit transparency and again disadvantage developing countries which might not have resources to conduct such meetings for development of coordinated positions outside of the Regional Committee meetings.

The international rationale and transparency issues associated with establishing new structures do not outweigh the benefit that might be created

Recommendation 18

“All committee and task force work should be time-bound. It is proposed that no standard be permitted more than 5 years’ work before decision by the Commission on whether further work is justified.”

BIO strongly agrees that the work of each committee and its mandate should be reviewed, as should the timeliness for the work to be conducted. Use of tasks force, etc should be encouraged, although we question the suggested term of five (5) years for completion of work. Tasks Force now are given four year timelines and specific objectives. Perhaps some knowledge can be gained from evaluating the terms of reference for those groups.

Recommendation 20

“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 organization 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.”*

Use of experts is to be encouraged, commended and supported as Codex is striving to develop science-based standards. However, there is a difference between facilitators and experts and it is unclear which is proposed. Also, while host countries pay for this expertise, who hires and manages the “expert?” Is there a pool of experts or are they identified on an as needed basis? Is the management of the experts to be within FAO or WHO?

The issue of consensus is a sensitive one - how best to achieve nationally agreed language is not easy. This “consensus” ensues from thorough discussion of issues with positions held by all parties expressed. A facilitator discussing an issue or standard *with many separate groups* would not necessarily develop consensus language. Bringing forth language, to the standing committee that was developed in such a manner might well do exactly the opposite. An individual cannot drive consensus; **paragraph 121** says that a main part of the facilitator’s function would be to understand dissenting views. That would require expertise from a variety of fronts - trade, commerce, foods (including distinctions among the variety of food commodities represented in Codex), regulations, etc. That is the function of the group discussion.

Transparency and inclusiveness issues would exist if some open discussion within the full Committee were not included when an issue of concern is addressed. Asking host countries (**paragraph 124**) to support the cost of facilitators may be problematic for increasingly stretched Committee budgets. Meeting costs will still exist; this will be an added financial burden.

Recommendation 22

“In order to improve the performance and ensure greater consistency among committee chairs, explicit criteria for selection of chairs should be drawn up and chairs should be confirmed by the Executive Board. More emphasis should be placed on training and assessment of chairs and the explicit role of the Codex secretariat in supporting effective chair-personship should be fully recognized.”

Paragraph 126 states that host countries will determine who will chair Committees that they fund; some criteria might be useful for host governments to consider using in their appointments. BIO does not believe that it is appropriate for the Executive Committee to approve such appointments nor is it useful to file chairman evaluation forms. Host countries will make these determinations.

BIO agrees with **paragraph 129**, that delegations to meetings should be informed and appropriate to the Committee meeting. Delegations from INGOs also should be informed and appropriate. Further, it is important to know the priorities of the delegation members funded by member governments. Member governments should report funding provided for country delegations as well as INGO delegations if the system for participation is to be transparent.

Recommendation 23- *“The present 8-step procedure should be simplified to a 5-step procedure for all standards. At Step 5, the Commission should not amend the standard but be required to:*

- *adopt the standard;*
- *refer the standard back to the committee to explore certain changes; or*
- *cancel or suspend work on the standard.”*

The rationale for this recommendation would appear to be to speed up the Codex process. However, thorough discussion of draft material, developing consensus and progress through the Step process could be accelerated, where and if appropriate, without changing the Step process. Should Committees be assisted by experts providing input between sessions, the laborious drafting might be hastened - thorough discussion of issues could still take place during existing steps. Further, how this revised step system would be rationalized with the standards existing in the Step System that currently exists also need to be established.

BIO questions the appropriateness of the suggestion in **paragraph 131** that a lawyer review the draft standard for WTO purposes. Standards should be scientifically based and defensible. How they are used by WTO is outside the mandate of Codex.

Recommendation 24

“Wherever possible, decisions should be made by consensus. Codex should define consensus for decision-making purposes in committees and the Commission. We propose ‘no formal objection by more than one member present at the meeting’; and:

- a) committees should, as the norm, achieve consensus before passing on standards to the Commission for adoption;*
- b) facilitators working between meetings should help to reach consensus and should be systematically used to assist in overcoming deadlock at any stage of the standard setting process);*
- c) in cases of ‘near-consensus’, proposed standards should be passed on by committees to the Commission for consideration. A consultative postal-balloting system should be considered as a way of ensuring inclusiveness and legitimacy;*
- d) if no better than ‘near-consensus’ could be reached in the Commission, voting should take place but should require at least a two-thirds majority of those present and voting for a standard to be adopted.”*

Recommendations for change and definition of what is consensus could easily distract from the important work of the CAC and the Committees. The consensus process as used within Codex for 40 years is understood and it works. It is the responsibility of the Chair of each Committee to determine when adequate discussion has occurred and consensus is reached. Obviously, some Committee Chairs are better able to do this than others. However, further discussion of standards, within the CAC, as forwarded by committees further establishes where there is consensus. Voting should not be encouraged but used only as a last resort. **Paragraph 137** speaks to concern about “major trading block opposed,” which is precisely why a voting system does not work well and working toward consensus is much more effective, albeit time consuming.

Recommendation 26

“Committees should be encouraged to appoint co-chairs of equal status, one of which would be from a developing country. Host countries should also hold meetings in the co-chair’s country.”

This recommendation adds another layer of management to committee meetings and more cost for the host governments. The objective appears to be to increase participation of developing countries; the outcome of this is unclear. This idea should be discussed among developing countries to see if it meets the needs they have to be “heard” in Codex meetings.

Recommendation 27

“Codex should review its principles and procedures for observer status as required by the Procedural Manual and:

- a) should consider applying stricter criteria to ensure that observers are genuinely international. New rules should apply to existing observers as well as future ‘applicants’ and the credentials of Codex observers should be approved individually by the Executive Board;*
- b) observers should be represented on the Executive Board and the Standards Management Committee (if established).”*

BIO strongly agrees that Codex should review principles and procedures for observer status. Further, as discussed in **paragraph 147**, we believe that one of the roles of the Committee Chair is to manage input from those in attendance. Member countries should be given priority to speak. If no time remains, the input from observers would not be provided. Many existing Committee Chairs are highly successful at managing this input- but it does require management of the agenda.

BIO does not agree with **paragraph 148** language concerning participation of observers. Either all observers should be permitted to sit in on the Executive Board and Standards Management Committee sessions or no observers should be permitted (see comments above about representation of observer groups).

Recommendation 31

“FAO and WHO should make a detailed calculation of the incremental cost increases for the Codex Secretariat of implementing the agreed recommendations and provide the necessary increased core funding.”

BIO agrees with preceding language that says the office of the Codex Secretariat should be elevated in stature and that senior personnel should be involved in the process. It is clear that expertise and experience are essential to the smooth functioning of the process. We strongly believe that the entire set of recommendations for change in structure ***should be compared with outcomes expected*** and cost/benefit prior to initiating any major change.

Recommendation 34

“The increased funding of risk assessment is a top priority.”

BIO agrees. However, language in **paragraph 181** regarding setting of priorities and **Recommendation #1** do not seem to relate to this. Risk assessment for health aspects of work in Codex is needed; expanding priorities for work not related to health concerns negates the need for risk assessment. Until priorities are developed and program of work established (including consideration of new areas of work), it is unclear how much increased funding would be required. ***BIO recommends an increase in funding for the priorities that exist now***; an evaluation of future needs can be made after progress with increased budget is demonstrated.

Recommendation 36

“Budgetary provision should be made to pay independent experts undertaking risk assessments. At the same time, strict deadlines and quality requirements should be put in place.”

BIO strongly supports an increase in funds for adequate inclusion of appropriate experts to participate in the expert committees. It is critical that the appropriate pool of experts is available for developing the scientific basis of these important international food standards.

Recommendation 37

“Building on the findings of this evaluation, a consultancy study should be immediately undertaken of expert advice and risk assessment and this should be followed by an expert consultation and discussion in Codex.”

It is unclear what this recommendation is intended to accomplish. However, ***some of the subparts are not appropriate for consideration within Codex***. For example (f): ways in which non-technical consumer representatives could contribute to the work

of providing scientific advice and risk assessment. ***This is not an appropriate role for consumers.*** Perhaps they might be involved in developing the objective of the assessment or communication of the risk but to expend funds so that they might be included in a scientific study would not be useful. Also (d): redefinition of basic requirements for global standards- why is this necessary? If standards exist for conduct (or termination) of standards development when data are sparse or lacking, why is that not adequate? In addition, (h): options necessary communication expertise and resource implications of alternative risk assessment communication strategies - it is unclear how this fits in the mandate of Codex. If the risk assessors and risk managers are talking and sharing information before and during the assessment, this would appear to be an academic exercise rather than one that would provide meaningful new processes to Codex.

Recommendation 38

“A Scientific Committee should be established by FAO/WHO.”

This recommendation raises a number of questions. The scientific committee would purportedly manage and coordinate the expert committees and prioritize. For the purposes of Codex, specific committees send prioritized requests to JECFA, JMPR and JEMRA. How would a Scientific Committee help that process? Further, the independence of each of the expert bodies as well as transparency of the process would be compromised if the overarching management came from those who pay for the services. Lastly, combined with the recommendation for the Joint Coordinator (see recommendation 39), this is a layer of bureaucracy to be added with little value or benefit evidenced.

Recommendation 39

“We recommend that a post of Joint Coordinator be established and located in WHO. The joint secretaries of existing scientific committees would continue to be under the current units of their two Organizations”

Establishment of a Joint Coordinator at WHO would not appear to strengthen work for Codex. Since each Committee works with the expert body appropriate to the subject matter, why would this Coordinator be helpful? Encouraging coordination between FAO and WHO expert groups is desirable; this added layer of management is not necessary to accomplish that. If the purpose is to work better within WHO, then this should be presented as a WHO issue, not one for Codex. Specifically, several of the bulleted points in **paragraph 201** that speak to the functions of the position are specific to WHO work and not within the mandate of Codex.

In summary, the work of the evaluation team should be commended. A number of useful recommendations can and should be implemented. BIO has stated those recommendations on which we can agree and we have raised questions about others.

Thank you again for providing the opportunity to comment on the results of the evaluation. Please feel free to contact me if you any questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Phillips".

Michael J. Phillips, Ph.D.
Executive Director
Food and Agriculture