

INTRODUCTION

1. The Executive Committee of the Codex Alimentarius Commission held its 75th Session (CCEXEC75) at the headquarters of the Food and Agriculture Organization of the United Nations (FAO) in, Rome, Italy, from 26 to 29 June 2018. A list of participants is contained in Appendix I.
2. The Chairperson of the Commission, Mr Guilherme da Costa Junior (Brazil), opened the session. The Head of the Food Safety and Quality Unit of FAO, Dr Renata Clarke, and Director of the Department of Zoonoses and Food Safety of the World Health Organization (WHO), Dr Kazuaki Miyagishima, welcomed the participants on behalf of the parent organizations.

ADOPTION OF THE AGENDA (Agenda item 1)¹

3. CCEXEC75 adopted the provisional agenda with the addition, under item 14, “Any other business” of:
 - i. The role of CCEXEC (CRD3) (proposed by the Chairperson);
 - ii. Endocrine-disrupting substances in food (CRD4) (proposed by Coordinator for Asia);
 - iii. Exchange of views regarding the critical review and chairpersons’ comments (proposed by the Member for Europe); and
 - iv. Deferral of the FAO/WHO Regional Coordinating Committees (proposed by the Coordinator for LAC).

MATTERS REFERRED FROM CODEX MEETINGS (Agenda item 2)²

4. CCEXEC75 took note that several matters were presented for information only and that others would be discussed under the relevant agenda item, primarily agenda item 3, “Critical Review”.

Work on Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods: Organic Aquaculture

Conclusion

5. CCEXEC75 reiterated its recommendation to discontinue the work and noted that the Codex Alimentarius Commission (CAC) could consider future work in this area should there be sufficient interest on the part of Members and a new work proposal presented.

CRITICAL REVIEW (Agenda item 3)³

6. CCEXEC75 recommended that the Commission:
 - i. consider for adoption all the texts as proposed the respective committees and take note of those on which it made specific comments and recommendations below;
 - ii. approve the extension of timelines where requested and, where no timeline had been provided, to request the relevant committee to provide one;
 - iii. note that otherwise the work of the committees was progressing in accordance with their respective schedules, with the exception of those listed below for which it made specific comments and recommendations; and
 - iv. consider for approval all items proposed as new work and note the comments and recommendations made below.

Codex Committee on Fresh Fruits and Vegetables (CCFFV)

7. CCEXEC75:
 - i. recommended that CCFFV consider how most efficiently to manage its work, e.g. taking initiatives to reach consensus on unresolved issues, and prioritizing new work proposals, taking into consideration current commercial quality standards and practices and the impact on international trade to inform standard-setting; and
 - ii. noted that provisions for decay in “Extra” class were optional and, depending on the nature of the produce, may not be applicable or necessary.

¹ CX/EXEC 18/75/1; CRD3 (Prepared by the Chair and the Vice-Chairs of CAC); CRD4 (Comments of India)

² CX/CAC 18/41/11; CX/CAC 18/41/11 Add.1; CX/CAC 18/41/11 Add.2; CX/CAC 18/41/11 Add.3

³ CX/EXEC 18/75/2; CX/EXEC 18/75/2 Add.1; CRD2 (Comments of Brazil, Bolivia, Chile, Costa Rica, Colombia, El Salvador, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Trinidad and Tobago)

Code Committee on Food Hygiene (CCFH)

Guidelines for the management of (micro)biological foodborne crises/outbreaks

8. The representative of WHO expressed concerns that CCFH could have waited until formal approval of new work before establishing an electronic working group (EWG) to circulate a proposed draft since it met annually and that the added value of a new Codex text should be thoroughly analysed given the various existing FAO/WHO guidance in this area where a tailored-made approach taking account of different national situations might be more appropriate than developing a one-size-fits-all Codex guideline.
9. Members noted that the guidance CCFH would develop could be common to chemical food contamination not covered by the mandate of CCFH.
10. The Codex Secretariat noted that the procedure for considering new work in CCFH had been followed; clarified that the EWG had begun its work with the understanding that it was subject to approval as new work by CAC; and confirmed that such an approach had become common practice to ensure timely standard-setting.

Conclusion

11. CCEXEC75 took note of the cross-cutting nature of the new work proposal; requested the Secretariat to inform other relevant Codex committees and request they reflect on whether similar guidance was needed on food-safety crises/incidents in their respective areas of work; would, depending on the feedback from those committees, consider any need to address the issue in a more integrated manner; and stressed that the process should not prevent CCFH from moving forward with the new work.

Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU)

Review of the Standard for Follow-up formula (CODEX STAN 156-1987)

12. Members discussed the Secretariat's recommendation to address references to WHO/WHA documents within the draft CCNFSDU text on follow-up formula (FUF).
13. CCEXEC75 noted that its advice did not preclude CCNFSDU from formulating specific requests for advice from CCEXEC at its next session, if appropriate.
14. CCEXEC75 also expressed its expectation that CCNFSDU would continue at its next session to complete the other elements, including scope, definitions and labeling, of the *Standard for Follow-up formula*.
15. CCEXEC75, recalling that similar issues relating to references had arisen in a number of Codex committees, noted that it may give further consideration to the benefit of providing generic advice to committees in this regard.

Conclusion

16. With regard to references to WHO/WHA documents in the draft CCNFSDU text on follow-up formula, CCEXEC75 provided the following advice intended to assist CCNFSDU in moving forward:
 - a. references should be considered on a case-by-case basis;
 - b. references may provide context and additional information to assist members in understanding and use of standards;
 - c. concepts and technical information could be incorporated into the text of the standard itself, rather than referencing sources external to Codex; and
 - d. references must be relevant to the scope of the standard itself, fall within the mandate of Codex, have a scientific basis, and have been developed through a transparent process.
17. CCEXEC75 further agreed to include the following language on consideration of FAO and WHO policies in the forthcoming Codex Strategic Plan:

“In conducting its work, the Commission takes into account, where appropriate, the relevant policies, strategies and guidelines of FAO and WHO, consistent with fulfilling its unique mandate to protect the health of consumers and ensure fair practices in the food trade through the development of international food safety and quality standards.”
18. CCEXEC75 also:
 - (i) requested CCNFSDU to consider a prioritization mechanism to better manage its work; and
 - (ii) expressed its appreciation to FAO and WHO for the provision of scientific advice through JEMNU and to donors for their financial support.

Codex Committee on Contaminants in Food (CCCF)

Proposed draft MLs for total aflatoxins (AFT) in ready-to-eat (RTE) peanuts and associated sampling plans

19. CCEXEC75 noted that CCCF12 had agreed to hold the ML of 10 ug/kg for AFT in RTE peanuts at Step 4 to ensure implementation of the *Code of practice for the prevention and reduction of aflatoxin contamination in peanuts (CXC 55-2004)* and that the Joint FAO/WHO Expert Committee on Food Additives (JECFA) would issue a data call after three years to collect data for further consideration by CCCF.
20. Members expressed divergent views as to the length of time that should be allowed for data collection.

Conclusion

21. CCEXEC75 took note of the concerns expressed and recommended that CCCF accelerate the process to finalize the ML and sampling plan.

Codex Committee on Food Additives (CCFA)

Food-additive provisions of the General Standard on Food Additives (GSFA) (for adoption)

22. The Secretariat informed CCEXEC of the need to correct an inadvertent omission that had arisen as follows: in aligning the food-additive provisions of the *Standard for Fish Sauce (CXS 302-2011)* with the GSFA, note XS302 “Excluding products conforming to the *Standard for Fish Sauce*” had been introduced in the provision for sucroglycerides (INS 474) in FC 12.6 “Sauces and like products”; however, during subsequent discussion on the GSFA, that provision for sucroglycerides (INS 474) in FC 12.6 was revoked but retained in F.C 12.6.4 “Fish sauce” resulting in the inadvertent omission of the note in the GSFA under FC 12.6.4 for INS 474 and its associated group food additives (INS 475 and INS 475a). To ensure consistency, the Secretariat proposed that this omission be corrected accordingly.

Conclusion

23. CCEXEC75:
 - i. recommended that CAC41 make corrections as proposed by the Secretariat, i.e. insert Note XS302 associated with the provisions for INS 475, INS 475a and INS 474 in FC 12.6.4; and
 - ii. recommended that CCFA clarify the operational procedure for the addition/removal of individual food additives under the same group heading should such issues be raised in CCFA.

Codex Committee on Pesticide Residues (CCPR)

Coordination with the EWG of CCRVDF on the definition of animal tissues

24. CCEXEC75 recommended that the CCPR/EWG on the revision of the *Classification of Food and Feed (CXM 4-1989)*, in addition to its existing terms of reference (ToRs), work closely with the CCRVDF/EWG on the definition of animal tissues to develop a harmonized definition that would facilitate the establishment of maximum residue limits (MRLs) for pesticides and veterinary drugs⁴.

Codex Committee on the Residues of Veterinary Drugs in Food (CCRVDF)

Coordination with the EWG of CCPP on the revision of the Classification of Food and Feed (CXM 4-1989)

25. CCEXEC75 recommended that the CCRVDF/EWG on the definition of animal tissues work closely with the CCPR/EWG on the revision of the *Classification of Food and Feed (CXM 4-1989)* to develop a harmonized definition that would facilitate the establishment of MRLs for pesticides and veterinary drugs.

Proposed draft MRLs for zilpaterol hydrochloride (cattle fat, kidney, liver, muscle)

26. CCEXEC75 noted concerns regarding the decision of CCRVDF24 not to advance the proposed draft MRLs for zilpaterol hydrochloride despite consensus in that Committee on the validity of the JECFA assessment and underlying science and questioned the relevance of considerations beyond the scope of the Codex mandate.
27. In response to a query whether relevant Codex procedures had been followed, a representative of the FAO Legal Office presented the following joint FAO/WHO legal opinion:

⁴ The joint recommendations to CCPR and CCRVDF are consistent with the recommendation of CCEXEC73 to encourage CCPR and CCRVDF to work closely together on cross-cutting issues for compounds with dual uses and explore innovative ways to foster collaboration (REP17/EXEC2, paragraph 19).

"A question has arisen whether or not it was procedurally correct to hold a proposed standard at step 4 of the Procedures for the Elaboration of Codex Standards and Related Texts in the absence of consensus to move the standard to step 5. Such a decision was taken by the Codex Committee on Residues of Veterinary Drugs (CCRVDF) at its last, 24th Session held in April of 2018.

"The matter attracted some controversy, as evidenced by a number of reservations that were included in the report of the Session. Such reservations questioned the holding of the draft standard at step 4 under the circumstance that the members opposing the standard did not, in fact, challenge the scientific analysis, which confirmed that a certain Maximum Residue Limit (MRL) for Zilpaterol would not present a risk to human health. Instead, the absence of consensus in the Committee up to that point was based on factors other than scientific factors, within the Codex Alimentarius mandate.

"As is often expressed, the two core values of Codex Alimentarius are science and consensus⁵, both of which find expression in the Codex Procedural Manual. Standards are adopted on the basis of scientific risk assessments and voting is resorted to only once every efforts have been made to reach consensus.

"In such a framework, the Chairs of the Codex Commission and its subsidiary bodies must necessarily have sufficient operating margin to find ways to reach consensus. As recognized in the Guidelines to Chairpersons "*[m]uch of the responsibility for facilitating the achievement of consensus would lie in the hands of the Chairpersons.*" To this end, the Chairs are encouraged, inter alia, to ensure "*that matters are not progressed from step to step until all relevant concerns are taken into account and adequate compromises worked out.*"⁶ Such leeway should be available at all levels of the standard development process, until such time it is considered that all efforts have been made to reach consensus and voting could be resorted to as a last option.

"It is further noted that the Chairs of the Codex Alimentarius Commission and its subsidiary bodies perform their duties at all times under the authority of the body that they chair. In the case at hand, the Chair's proposed way forward was accepted by CCRVDF, even if a number of reservations were recorded.

"In view of these circumstances, there is no reason to suggest that the decisions taken at the CCRVDF breached any rule of Codex."

28. The representative of the Legal Office further stated:

"The above does not exclude that the Codex Alimentarius Commission further clarifies the role of science and the extent to which other factors are taken into account. In this context, it is important to note that the *Statements of Principle Concerning the Codex Decision-making Process and the Extent to which Other Factors are Taken into Account* make reference to the acceptance procedure as a mechanism to address the dilemmas that arise at times in connection with 'other considerations', while avoiding the blocking of the adoption of standards. The acceptance procedure, however, was abolished in 2005, largely due to the advent of the international trade agreements, which have altered the original nature and status of Codex standards. These developments would seem to warrant a review of the Statements of Principle to better clarify the extent to which "*other legitimate factors relevant for health protection and fair trade practices*"⁷ may be taken into account in the adoption of Codex standards.

"Such a review could consider factors, including, but not limited to, the need for an efficient standard adoption process; the science-based nature of standard setting in Codex, the role of scientific risk assessment versus risk management; the role of voting in efficient standard setting and develop ideas as to how to overcome the stalemates that sometimes arise. The Commission could be invited to refer such questions to an appropriate body for discussion and consideration, taking into account the terms of reference of the subsidiary committees of Codex."

29. CCEXEC75 noted the legal opinion that in seeking consensus the CCRVDF Chairperson had acted within his authority.

30. Members expressed concern that the legal opinion had not been made available in advance, leaving little time for review and consideration.

⁵ See for example Rule XII(2) of the Rules of Procedure of the Codex Alimentarius Commission; Guidelines to Chairpersons Of Codex Committees and Ad Hoc Intergovernmental Task Forces, Codex Procedural Manual, 26th edition, pp 110-114; Measures to Facilitate Consensus, Codex Procedural Manual, 26th edition, p. 253

⁶ Guidelines to Chairpersons Of Codex Committees and Ad Hoc Intergovernmental Task Forces, *ibid.*, p. 112, and p. 113 (letter e)

⁷ Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to which Other Factors are Taken into Account; Codex Procedural Manual, 26th edition, pp 250-251.

31. The Codex Secretariat clarified that the legal opinion had been prepared in advance of the meeting in case the relevant question had been raised and had not been intended for prior distribution. Legal advice was commonly provided during Codex sessions as and when questions arose.
32. It was raised that it was important not to put other factors ahead of science. Members also recalled that: risk analysis comprised the three elements of risk assessment, management and communication; CAC and its committees were risk managers; and the consideration of other factors was an important element of risk management.
33. The Chair clarified that consideration of other factors was covered in the Procedural Manual and that science was also the basis for risk management, as part of the risk-analysis process.
34. In discussing the suggestions contained in the legal opinion on clarifying procedural considerations, it was proposed that:
 - i. Chairpersons be provided advice on applying the provisions of the Codex Procedural Manual;
 - ii. the Secretariat/Legal Counsels prepare a paper on the history and implications of paragraph 4 of the Statements of Principle;
 - iii. approaches to overcoming lack of consensus be given further consideration;
 - iv. a review be undertaken of the Statements of Principle Concerning the Role of Science, as described in the final paragraph of the legal opinion; and
 - v. discussion proceed on these issues in either CCGP or CCEXEC.

Conclusion

35. Acknowledging the importance of addressing the issues and challenges raised, CCEXEC75 agreed to continue discussion at CCEXEC77 on the matter facilitated by a report, to be prepared by the Codex Secretariat in conjunction with the CAC Bureau and the legal counsels of FAO and WHO, building on the comments made at the session.

Committee on Sugars (CCS)

Standard for non-centrifuged dehydrated sugar cane juice

36. Members discussed the importance of developing a global standard for this product. However, since there was no consensus in CCS on key sections of the draft standard despite several years of work, and taking into consideration the discussion at CAC40, CCEXEC75 recommended discontinuation of the work and noted that CAC could consider future work in this area should there be sufficient interest on the part of Members and a new work proposal presented.

Codex Committee on Cereals, Pulses and Legumes (CCCPL), working by correspondence

Standard for quinoa (for adoption)

37. Noting the proposal that committees working by correspondence provide detailed reports so as to facilitate understanding among members not participating in the discussion, CCEXEC75:
 - i. recommended that CAC41 consider for adoption the draft standard for quinoa noting it would be subject to the endorsement of CCFL45; and
 - ii. noted the need to identify a method of analysis for determining saponins so that the standard could be fully implemented.

Committee on Processed Fruits and Vegetables (CCPFV) working by correspondence

Report on CCPFV Work Priorities, Work Plan, and Recommendations for Electronic Working Groups (EWG)

38. CCEXEC75 recommended that CAC41 endorse the proposals of CCPFV to:
 - i. establish the seven EWGs to prepare the proposed drafts for comments and consideration by CCPFV; and
 - ii. hold a physical working group meeting at an appropriate time.

CODEX STRATEGIC PLAN 2014-2019: IMPLEMENTATION STATUS (Agenda Item 4)⁸

39. CCEXEC75 noted that: the timely distribution of working documents remained an area for improvement; the rate of participation of delegations from developing countries in physical meetings had decreased, while members had greatly benefited from an increased use of IT tools and capacity-building workshops on these practical systems; CCFICS would produce a paper at its next session regarding the pilot of the web-conferencing system adopted for its physical working group (PWG) sessions; and PWGs held prior to committee sessions often lacked interpretation leaving some members unable to participate effectively in the work.
40. The representative of FAO, with reference to emerging issues and horizon scanning, encouraged members to continue to work through the RCCs in order for them to contribute effectively to the discussions on the future of Codex.

Conclusion

41. CCEXEC75:
- i. endorsed the 2017 status report and requested that the Codex Secretariat, in collaboration with FAO and WHO, present at CCEXEC77 a status report of the 2018 implementation of the Strategic Plan 2014-2019; and
 - ii. requested that the Codex Secretariat circulate the draft report template for EWGs for comments from CCEXEC members prior to its dissemination in 2018.

CODEX COMMUNICATIONS WORKPLAN 2017-2019: IMPLEMENTATION STATUS (Agenda item 5)⁹

42. CCEXEC75 agreed, in the interests of time, to defer consideration of this matter until CCEXEC76.

REGULAR REVIEW OF CODEX WORK MANAGEMENT: REPORT 2017-2018 (Agenda item 6)¹⁰

43. CCEXEC75 agreed, in the interests of time, to defer consideration of this matter until CCEXEC76.

REGULAR REVIEW OF CODEX WORK MANAGEMENT: 2018-2019 THEME (Agenda item 7)¹¹

44. CCEXEC75 noted that this item would be considered at CAC41.

CODEX STRATEGIC PLAN 2020-2025: DRAFT (Agenda item 8)¹²

45. Recalling the importance, as agreed by CCEXEC74, of inclusivity and timeliness in developing the forthcoming strategic plan, CCEXEC75 encouraged the Regional Coordinators to hold consultations with members from their respective regions during CAC41, with the participation of the CAC Bureau, seeking feedback to facilitate a decision at CCEXEC76 regarding the process and timetable for the completion of the strategic plan. The Chairperson noted that innovative methods could be used to ensure the continued inclusivity of the process.
46. CCEXEC75 discussed the items contained in Appendix 1 of 18/75/6 and noted: the comment of the Coordinator for Latin America and the Caribbean regarding the final sentence of paragraph 3 of the introduction, which he viewed as going beyond the mandate of Codex, but agreed to retain the text of the preamble; and the comment of the Member for Europe that an additional objective relating to consensus-based standard-setting could be added to strategic goal 3, but agreed not to make this addition.
47. CCEXEC further endorsed the following text, "To be the preeminent international food-standard-setting body that establishes globally recognized international food standards that are used worldwide to protect consumer health and promote fair practices in the food trade for everyone, everywhere", as the strategic vision statement, and the following text, "Codex standards address members' current, emerging and critical issues", for strategic goal 1, and retained the original wording of all other strategic goals.
48. Discussions on the action plan for implementation highlighted the need for further work in that area. CCEXEC75 deferred to CCEXEC76 further consideration of whether the text for activity 2.3.3 should remain as drafted. The Chairperson noted a number of corrections agreed by the Committee but recognized that other aspects required further consideration and could be addressed in an iterative manner. Those included proposals to:
- i. improve alignment across the goals, objectives, outcomes and indicators;

⁸ CX/EXEC 18/75/3

⁹ CX/EXEC 18/75/4

¹⁰ CX/CAC 18/41/13

¹¹ CX/EXEC 18/75/5

¹² CX/EXEC 18/75/6; CRD1 (prepared by the Codex Secretariat)

- ii. review and revise the indicators to differentiate between indicators and data sources and consider the use of baselines and targets to measure progress;
- iii. further consider broader strategic issues relating to the development of the food and agriculture sector and how Codex may address challenges that may arise;
- iv. review and clarify the objectives and activities where needed (e.g. objectives 2.1, 2.3, 4.2) including their appropriate location within the action plan (e.g. activity 5.4.3); and
- v. clarify or update the definition of “developing countries”.

Conclusion

49. CCEXEC75:

- i. agreed that the draft strategic plan be circulated by 1 August 2018 to members for comment;
- ii. noted that CCEXEC76 would discuss the process and timeline for finalizing the strategic plan; and
- iii. noted that outstanding issues would be addressed at forthcoming meetings of the drafting group and CCEXEC.

COMMITTEES WORKING BY CORRESPONDENCE AND PILOT FOR A COMMITTEE ON STANDARDS ADVANCEMENT (Agenda item 9)¹³

50. CCEXEC75 noted that this item would be considered at CAC41.

CODEX BUDGETARY AND FINANCIAL MATTERS: REPORT 2016-2017 AND PROGRESS 2018-2019 (Agenda item 10.1)¹⁴

51. CCEXEC75 noted that this item would be considered at CAC41.

CODEX BUDGETARY AND FINANCIAL MATTERS: PROPOSAL 2020-2021 (Agenda item 10.2)¹⁵

52. CCEXEC75 noted that this item would be considered at CAC41.

FAO/WHO SCIENTIFIC SUPPORT TO CODEX: ACTIVITIES, BUDGETARY AND FINANCIAL MATTERS (Agenda item 11)¹⁶

53. CCEXEC75 noted that this item would be considered at CAC41.

MATTERS ARISING FROM FAO AND WHO (Agenda item 12)¹⁷

54. CCEXEC75 noted that this item would be considered at CAC41.

APPLICATIONS FROM INTERNATIONAL NON-GOVERNMENT ORGANIZATIONS FOR OBSERVER STATUS IN CODEX (Agenda item 13)¹⁸

55. CCEXEC75 agreed, in the interests of time, to defer consideration of this matter until CCEXEC76.

ANY OTHER BUSINESS (Agenda item 14)¹⁹

56. CCEXEC75 was unable to take up any further business due to a lack of time.

¹³ CX/CAC 18/41/12; CX/CAC 18/41/12 Add.1

¹⁴ CX/CAC 18/41/14

¹⁵ CX/CAC 18/41/15

¹⁶ CX/CAC 18/41/16

¹⁷ CX/CAC 18/41/17; CX/CAC 18/41/17 Add.1

¹⁸ CX/EXEC 18/75/7

¹⁹ CRD3 (Prepared by the CAC Bureau); CRD4 (Comments of India)