

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - E-mail: codex@fao.org - www.codexalimentarius.org

Agenda Item 11

CX/EXEC 16/71/14

JOINT FAO/WHO FOOD STANDARDS PROGRAMME
EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION
Seventy-first Session, FAO Headquarters
Rome, Italy, 20-23 June 2016

DISCUSSION PAPER ON COMMITTEES WORKING BY CORRESPONDENCE

Introduction

1. Recently several commodity committees have been reactivated to work by correspondence (CCMMP, CCS, CCCPL). In the past, the CCCPL had developed a standard for instant noodles by correspondence. A committee working by correspondence (i.e. not holding physical meetings) raises a number of procedural and work management issues. The existing procedures seem not entirely consistent nor do they give explicit guidance.
2. CCGP30 reviewed a discussion paper from France and Germany (CCGP30/CRD2) and acknowledged the importance of considering this matter and the need to provide guidance, which might assist Codex to work more effectively and efficiently.
3. The paper summarizes existing rules and practices used by different committees working by correspondence and poses some questions and thoughts for further consideration and in particular discusses:
 - (i) Reasons for working by correspondence
 - (ii) Procedural guidance for working by correspondence
 - (iii) Committees working by correspondence and what issues faced
 - (iv) Committees working and working groups
 - (v) Possible guidance and further considerations

(i) Reasons to work by correspondence

4. In recent years, the Codex Alimentarius Commission has reactivated three Committees adjourned *sine die* to undertake new work by correspondence: the CCCPL (development of a standard for quinoa), CCMMP (development of a standard for processed cheese and dairy permeate powders) and CCS (development of a standard for non-centrifuged dehydrated sugar cane juice). This was done because the scope of the work was limited and did not justify a physical meeting of the committee.
5. The last session of the CCFFP also agreed to suspend its cycle of physical meetings and to continue its work by correspondence on the development of guidance and sampling plans for histamine as no new requests for further work had been submitted and the volume of outstanding work did not justify convening regular sessions of CCFFP.

(ii) Procedural guidance for working by correspondence

6. The Codex Alimentarius Commission may establish subsidiary bodies of different nature (Rule XI). Task forces are not mentioned in this Rule while they are mentioned in the *Criteria for the establishment of subsidiary bodies of the Codex Alimentarius Commission* which in turn however refer back to Rule XI.1(b)(i) (the rule for Codex Committees)
7. The *Uniform procedure for the elaboration of Codex standards related texts* it does mention Committees as such. At steps 4 and 7 of the procedure, the steps where comments are discussed and the fate of the texts decided, the procedure refers to “subsidiary body or other body concerned which has the power to consider such comments and to amend the (proposed) draft standard”.
8. The critical review differs from this and refers to Codex committees in different places (Part 2: Critical review 1: project document and 7: monitoring of standards development).

9. However, these paragraphs also do not refer to task forces. Task forces are mentioned in the paragraph related to establishment or dissolution of bodies where reference is also made to the interesting concept of the “ad-hoc cross-committee task forces”. This concept – like the concept of task forces in general is not further elaborated in the procedures.
10. The rules do not seem to prescribe to hold physical meetings; however, they only contain ample guidance for physical meetings.
11. The only guidance for virtual working can be found in the *Guidelines on electronic working groups*.
12. Nevertheless, committees working by correspondence can apply some of the provisions of the Procedural Manual fully. This includes the *Procedures for the elaboration of Codex standards and related texts* (Section II) and some sections in the *Guidelines on the conduct of meetings of Codex committees and ad hoc intergovernmental task forces* (Section III) (e.g. reports, drawing up of Codex standards, etc.). Sections explicitly referring to physical meetings are however not fully applicable (e.g. Conduct of meetings).
13. Codex Sessions of committees should have a quorum in order to be able to take a decision and there is no procedural guidance how this can be done virtually. More discussions including with the legal offices are required.

(iii) Committees working by correspondence and issues faced

14. The Committee on Sugars (host country: Colombia) is working on one item: the development of the standard for non-centrifuged dehydrated sugar cane juice. Colombia as host leads the work.
15. The analysis of the comments and the decision to amend the standard accordingly remains with the Chair/Host Country of the Committee. The revised standard, together with a summary of the changes made (including the rationale for such changes), the key points addressed in the written comments submitted, and any outstanding issue the Chair may wish to draw the attention of Codex members and observers, are submitted for comments / consideration by all Codex members and observers by means of a Circular Letter.
16. Several CLs may be circulated within the timeframe allocated to the completion of work to give sound grounds to the Chair/Host Country Secretariat to judge whether the standard is ready for adoption by the Commission. When a standard is ready for adoption (Steps 5, 5/8 or 8) a CL is submitted to CAC for consideration, in a similar way the report of a committee holding regular session is submitted to CAC.
17. This is a major difference to committees holding physical meetings where the revision of the standard as well as the conclusions and recommendations for consideration and/or adoption by CAC are done by the Chair with the members in an interactive “consultation process” and a “consensus building decision-making process”.
18. Although committees working by correspondence through the circulation of CLs and reception of comments attempt to simulate this process, the Chair and the Host Country Secretariat have the main responsibility for the revision of the standard, the conclusions and recommendations for consideration and/or adoption by CAC. There is no formal “report” or “report adoption process”.
19. At physical sessions, only those members that are present at the session adopt committee reports. These reports are distributed through CL to the whole membership with request for comments on texts forwarded to the CAC for adoption.
20. The success of the attempt of a committee host working by correspondence to ensure inclusiveness and transparency of the consensus building and decision process can be measured by the comments made by members (indicating minimum disagreements / general support) on the revisions made to the standard and the degree of consensus shown when discussing adopting the standard in CAC.

(iv) Committees working by correspondence and working groups

21. In the case of CCCPL and CCMMP, CAC established EWGs or PWGs when re-activating the committee as part of the work setting of the committee in an attempt to facilitate discussions. In CCCPL there is an EWG chaired by Bolivia and co-chaired by USA (Host of CCCPL) to develop the standard for quinoa and the case for CCMMP where there was a PWG chaired by New Zealand (Host of CCMMP) and co-chaired by Uruguay to develop the standard for processed cheese.
22. Codex EWGs or PWGs (as such we consider here only those PWG that meet independently of a committee as the committees in question do not meet physically) have a Chair and a limited group of participants (members and observers) who discuss texts, agree on the changes, identify difficult points for further discussion by the Committee in plenary and develop options. They produce a report summing up the discussions and attach the revised standard and list of participants.

23. EWGs have the same issues in modeling consensus building and decision taking as committees working by correspondence whereas PWGs have the advantage of the direct interaction. However, both EWG and PWG do NOT take decisions on behalf of the Committee. The Codex Secretariat circulates EWG/PWG reports for comments to all Codex members and observers and the plenary of the relevant committee considers the reports together with the comments submitted.

24. In the case of CCMMP and the PWG on processed cheese, the report of the PWG (adopted by the participants at the session) was circulated for comments. The Chair/host country of the committee considered the comments and integrated into a new draft and “report” to the Commission. This process modeled the discussion of the report of the PWG in the Committee and caused procedural concerns with some members.

25. Committees working by correspondence are already a virtual process working without sessions they do not have the workload that justifies physical meetings. The need of an EWG or PWG to report to a committee working by correspondence adds a layer of complexity and may cause confusion as to the stage of discussion of the project.

26. It seems contradictory that a committee working by correspondence (which does not meet physically because its agenda does not justify it) establishes a physical working group. This PWG would be only marginally cheaper than a full committee session meeting while generating the issue of reporting to a virtual process rather than a plenary session where the consensus building and decision taking is again more difficult.

27. The same “reporting” issue may apply to the outcome of the work of a EWG therefore, instead of having two “virtual/electronic” bodies one “reporting” to the other, it would be preferable to have only one i.e. the committee working by correspondence to avoid introducing additional complexity to the work by correspondence.

28. If during the work by correspondence, issues arise that, after several attempts to resolve them by working by correspondence, this may indicate: (a) the need for a physical meeting of the committee itself; or (b) an issue with the project worked on e.g. non-amenability to standardization.

(v) Possible guidance and further considerations

Possible guidance for the consultation/consensus building process

29. The aspects of the “consultation” process, the “consensus-building decision making” process and the “adoption” of the “report” are absent in a committee working by correspondence due to nature of the work (i.e. there are no plenary meetings).

30. A consultation process similar to that in plenary sessions between the Chair and the delegations could be equated to a consultation that the Chair may have with the Codex members / observers who have sent comments in reply to the CL (kind of “plenary session”). This is not currently applied systematically (it is in principle discretionary to the Chair to consult with Codex members / observers for further clarification).

31. Subsequently, consensus on the changes made to the text may be ensured in a similar way that EWGs operates, i.e. the Chair will make sure that the revision are agreed to by those Codex members / observers who sent comments in reply to the CL.

32. Only if the revised text together with any conclusion / recommendation the Chair may have (the “report = CL” of the committee) is agreeable to all those Codex members and observers who submitted comments to the CL, the CL (= report) is circulated for comments to the whole Codex membership.

Further considerations

33. There seems to be a need to work in different ways on commodity standards and possibly other work items than through regular committee meetings. There is no clear procedural guidance for committees working by correspondence. The issues could be looked at in the broader context of the internal review of Codex work management, where the procedures of other international organizations can be taken into account.

34. The Online Commenting System (OCS), which will be launched in early 2017, will provide a simple, efficient, user-friendly online system to share, submit and compile comments on documents. OCS could assist committees working by correspondence by enhancing participation and the transparency of the process.