

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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CODEX COMMITTEE ON CONTAMINANTS IN FOODS

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15-19 April 2024

Comments submitted by the European Union

Agenda Item 5: Maximum levels for lead in certain food categories (at Step 4)

*European Union Competence
European Union Vote*

The European Union (EU) welcomes and appreciates the work on the maximum levels (MLs) for lead by the electronic Working Group chaired by Brazil.

The EU would like comment in favour of the approach of applying the MLs to the entire concerned spice category with only exemptions for the spices listed in the remarks' column.

The EU would like to enquire why "anise" is listed in appendix II table I in the category of culinary herbs. Furthermore, the EU would suggest that for the category "spices, dried, fruits and berries" it is specified that anise concerns "star anise", in order to avoid confusion.

As regards the proposed maximum levels (MLs) for the individual commodities, the EU would like to present the following position:

For **dried bark spices** the EU can support the proposed ML of 2.5 mg/kg.

For **dried flower spices** the EU can support the proposed ML of 0.4 mg/kg.

For **dried floral parts spices**

The EU would like to comment that the available data for saffron and dry capers would support a lower ML of 1.0 mg/kg. As regards the available data for cloves, it appears that the concentrations of lead in most samples are below 0.5 mg/kg, so the few samples with concentrations above 2 mg/kg could be considered to be outliers. With a view of setting MLs for lead at levels, which are as low as can reasonably be achieved, the EU would like to comment in favour of a lower ML of 1.0 mg/kg for all dried floral part spices.

For dried **fruits and berry spices other than Sichuan pepper** the EU can support the proposed ML of 0.6 mg/kg.

For **Sichuan pepper** the EU can support the proposed ML of 3.0 mg/kg.

For **dried rhizome, root and bulb spices excluding garlic and galangal**, the EU is of the opinion that on the basis of the available occurrence data and, taking into account the 'As Low As Reasonably Achievable' principle a lower ML of 1.5 mg/kg is appropriate. As dried garlic would be exempted from the ML for 'spice, rhizomes, bulb and roots' it is proposed to re-name the category to 'spice, rhizomes and roots'.

For **dried seed spices** the EU can support the proposed ML of 0.8 mg/kg.

For **dried aril spices** the EU can support the proposed ML of 0.9 mg/kg.

For **fresh culinary herbs**

The EU is of the opinion that data statistics should be provided per species, especially for the herb species that have a naturally low water content, such as rosemary, thyme, oregano and sage. It should be checked whether the proposed ML of 0.2 mg/kg will not cause high non-compliance rates for these specific fresh herbs. The EU has limited data available which suggest an unacceptable rejection rate for fresh rosemary, thyme and oregano, in case an ML of 0.2 mg/kg would be agreed for fresh culinary herbs. If no sufficient GEMS data would be available for fresh rosemary, thyme, oregano and sage, it is proposed to only establish a Codex ML for those specific fresh herbs, for which sufficient data are available or not to establish a Codex ML for fresh culinary herbs. If no specific Codex ML would be established for fresh culinary herbs, the Codex ML for dry culinary herbs could still be applied to fresh culinary herbs, taking into account the water content of fresh and dry culinary herbs.

For **dried culinary herbs**

1500 EU samples for dried culinary herbs are available with the information is that these herbs were dried, so these samples should not have been disregarded. Additional information on EU samples can always be requested to EFSA (data.collection@efsa.europa.eu). On the basis of the EU data set, it appears that a lower ML of 1.5 mg/kg would be appropriate for dried culinary herbs. Therefore, the EU would like to comment in favour of a lower ML of 1.5 mg/kg for dried culinary herbs.

Agenda Item 7: Definition for ready-to-eat peanuts for the establishment of a maximum level for total aflatoxins in this product

European Union Competence European Union Vote

The European Union (EU) welcomes and appreciates the work of India as chair of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/7 on the definition for ready-to-eat peanuts for the establishment of a maximum level for total aflatoxins in this product.

The EU acknowledges the intention to align the definition for ready-to-eat peanuts to the already existing Codex definition for ready-to-eat treenuts (CXS 193-1995). To avoid any confusion, the EU proposes to reformulate the first part (in bold) of the definition in line with the definition for ready-to-eat treenuts as follows:

“Ready-to-eat peanuts are peanuts which are not intended to undergo an additional processing/treatment that has proven to reduce levels of aflatoxins before being used as an ingredient in foodstuffs, otherwise processed or offered for human consumption, packed in all types of packaging such as consumer or bulk, labelled as ‘RTE Peanuts’. Includes, but not restricted to: (i) raw shelled peanuts, (ii) raw in-shell peanuts, (iii) roasted in-shell peanuts, (iv) roasted/blanched shelled peanuts, (v) fried shelled peanuts with or without skin, (vi) coated peanuts, (vii) seasoned peanuts, (viii) smoked peanuts, (ix) salted and cooked peanuts, (x) peanut butter.”

Furthermore, the EU seeks clarification on the following aspects of the definition:

- “labelled as ‘RTE Peanuts’”: The EU notes that lots/batches of peanuts which fall within the definition of ready-to-eat peanuts will not necessarily be explicitly labelled as “RTE Peanuts”. Given the requirement in the definition of ready-to-eat peanuts to be labelled as such would this mean that the possible future maximum level would not be applicable to lots/batches that have not that specific label?
- the EU questions the inclusion of peanut butter into the definition of ready-to-eat peanuts. It notes that peanut butter is usually not considered to be ready-to-eat peanuts but a product derived/produced from peanuts. The other provided examples for ready-to-eat peanuts included in the definition are peanuts. The inclusion of peanut butter in the definition is confusing as it might raise questions if e.g. also peanut oil, used as ingredient in food, would also be included in the definition of ready-to-eat peanuts. The EU therefore proposes to delete the example of peanut butter in the definition.

The EU notes that there is an error in paragraph 12 of the document as the paragraph 115 in REP18/CF was a conclusion by CCCF12 and not CCCF18.

The EU agrees to issue a call for occurrence data for aflatoxin total in ready-to-eat peanuts.

As regards the elaboration of the maximum level for aflatoxin total in ready-to-eat peanuts, the EU seeks clarification as regards the relation between the finalisation of the review of the Code of Practice (agenda item 14) and the timing of the establishment of the maximum level for total aflatoxins in ready-to-eat peanuts as the project document in

Appendix I of CX/CF 24/17/14 mentions explicitly in point 6 that the Code of Practice is important to support the development of maximum levels for aflatoxin contamination in peanuts.

Agenda Item 8: Sampling plans for total aflatoxins and ochratoxin A in certain spices (at Step 4)

European Union Competence European Union Vote

The European Union (EU) welcomes and appreciates the work done by India as chair of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/08 on sampling plans for total aflatoxins and ochratoxin A in certain spices.

As regards the points raised for discussion (§§ 5-7 of CX/CF 24/17/8):

- As regards the particle size: large particle size spices refer to spices such as nutmeg with a particle size similar or larger than peanuts and treenuts. Powdered spices are spices placed on the market as powder. The small particle size spices refer to all other spices that cannot be classified as large particle size spices or powdered spices.
- As regards the decision rule: the heterogeneity of aflatoxin contamination in batches of large particle size spices is similar to the heterogeneity of aflatoxin contamination in peanuts and treenuts. The proposed decision rule is in line with the decision rule for ready-to-eat treenuts provided for in the Codex sampling plans for aflatoxin contamination in ready-to-eat treenuts and treenuts for further processing: almonds, hazelnuts, pistachios and shelled Brazil nuts (CXS 193-1995).
- As regards the comment that the high value of the spices needs to be taking into account for defining appropriate sample weights, the EU wishes to stress that the sample taken must be representative for the sampled lot/batch, thereby ensuring to minimize the consumer's risk while not resulting in an unacceptable level of exporter's/producer's risk.

The EU is largely supportive of the sampling plan as presented in Appendix I but has following comments:

As regards part A: Spices with large particle size

- it is the understanding of the EU that the reason for putting in table 1 two options for aggregate sample weight in square brackets relates to the discussion point mentioned in § 5 (d) of the document CX/CF 24/17/8. The provisions under table 1 reflect the option of an aggregate sample weight of 20 kg and therefore it is proposed to remove the following inconsistency under that option: the weight of the incremental sample mentioned in the footnote (*) should be 200 g instead of 100 g;
- it is the understanding of the EU that the reason for putting in table 2 certain aggregate weight samples between square brackets relates to the discussion point mentioned in § 5 (d) of the document CX/CF 24/17/8.

As regards part B: Spices with small particle size

- it should be specified that the incremental sample size is 100 g.

As regards part C: Powdered spices

- the proposed sampling plan reflects the sampling plan for powdered spices as established in the EU by Commission Regulation (EU) 2023/2782¹

However, the results from recent research performed by a working group coordinated by the German Federal Institute for Risk Assessment (BfR) provide evidence that the sampling method for the control of plant toxins (also applicable for the control of mycotoxins) in dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices as laid down in Implementing Regulation (EU) 2023/2782 does not guarantee obtaining a sample that is representative for the sampled lot. It was therefore necessary to amend the sampling method by increasing the required weight of the

¹ Commission Implementing Regulation (EU) 2023/2782 of 14 December 2023 laying down the methods of sampling and analysis for the control of the levels of mycotoxins in food and repealing Regulation (EC) No 401/2006, OJ L 2023/2782, 15.12.2023, ELI: http://data.europa.eu/eli/reg_impl/2023/2782/oj

incremental sample from 40 g to 80 g) and the weight of the aggregate sample from 2 to 4 kg. These changes have been recently established in EU legislation by Commission Regulation 2024/885 of 20 March 2024². The EU is therefore of the position that the incremental sample weight should be 80 g (instead of 40 g) and in the column "Aggregate sample weight (kg) in tables 5 and 6, the sample weight should be doubled (x 2).

Agenda Item 10: Discussion paper on pyrrolizidine alkaloids in food and feed

Mixed Competence European Union Vote

The European Union and its Member States (EUMS) welcome and appreciate the work of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/10 on pyrrolizidine alkaloids in food and feed.

The EUMS support the new work on updating the Codex Alimentarius Code of practice for weed control to prevent and reduce pyrrolizidine alkaloid contamination in food and feed (CXC 74-2014) and to complement the Code of Practice, if appropriate, with specific Annexes for tea, herbs, herbal infusions, food supplements and spices and agrees to forward the project document as outlined in Appendix II to CCEXEC and the CAC for approval as new work.

While acknowledging that the prevention and reduction of pyrrolizidine alkaloids in honey might require specific measures, the EUMS are of the opinion that it is appropriate to include the specific measures applicable to the prevention and reduction of the presence of pyrrolizidine alkaloids in honey in a specific Annex for honey to the Code of Practice and are not in favour of developing a separate Code of Practice for the prevention and reduction of the presence of pyrrolizidine alkaloids in honey.

The EUMS are in favour of preparing a document prepared by the EWG providing a guidance on sampling and analysis of the presence of pyrrolizidine alkaloids in feed and food for consideration by CCCF18 in view of issuing a future call for data on the presence of pyrrolizidine alkaloids in food and feed.

In preparation of the guidance document, it would be appropriate that the EWG elaborates an overview of:

- the currently available occurrence data, with information on the way the results are reported (individual pyrrolizidine alkaloids, sum of pyrrolizidine alkaloids) and on the methods of analysis (including the LOQ of the method), if available, used to generate the occurrence data.
- the currently applicable regulatory requirements in member countries and regions for pyrrolizidine alkaloids in feed and food.

This information would be useful to identify, if needed, minimum analytical requirements and the feed and food that should be targeted for monitoring and providing occurrence data and this in function of the purpose of collecting new data.

Agenda Item 11: Discussion paper on tropane alkaloids in foods

Mixed Competence European Union Vote

The European Union welcomes and appreciates the work of China as chair and Saudi Arabia as co-chair of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/11 on tropane alkaloids in foods.

The EU supports the elaboration of a Code of Practice to prevent and reduce the presence of tropane alkaloids in food. Although it is acknowledged that many good practices, in particular those related to weed control, to prevent and reduce the presence of pyrrolizidine alkaloids in food are also applicable to prevent and reduce the presence of tropane alkaloids in food, the EU is for several reasons not in favour of extension of the Code of Practice for weed control to prevent and reduce pyrrolizidine alkaloid contamination in food and feed (CXC 74-2004) to tropane alkaloid contamination.

² Commission Implementing Regulation (EU) 2024/885 of 20 March 2024 amending Implementing Regulation (EU) 2023/2782 laying down the methods of sampling and analysis for the control of the levels of mycotoxins in food as regards the method of sampling for dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices OJ L, 2024/885, 21.3.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/885/oj

These reasons are (not exhaustive):

- weeds containing pyrrolizidine alkaloids are different than weeds containing tropane alkaloids and might therefore require different measures to mitigate.
- the feed and food contaminated with pyrrolizidine alkaloids are mainly forages and roughages, herbs, tea, herbal infusions, spices and honey while the feed and food with tropane alkaloids are mainly cereals, pseudocereals, oilseeds and herbal infusions. The crops affected by pyrrolizidine alkaloid contamination are to a certain extent different from the crops affected by tropane alkaloid contamination and this might have an influence for the measures to prevent and reduce contamination.
- the contamination of feed and food with pyrrolizidine alkaloids is mainly a contamination with the whole plant while the contamination of food is mainly a contamination with the seeds of the tropane alkaloid containing plants. This is very relevant for prevention measures at the stage of harvest and post-harvest (cleaning, sorting etc).

The EU agrees to forward the project document to CCEXEC and the CAC for approval as new work after it has been clarified if the proposed work is to develop a new Code of Practice or extend the current Code of Practice for Weed Control to Prevent and Reduce Pyrrolizidine Alkaloid Contamination in Food and Feed (CXC 74-2014)

The EU agrees to issue a call for data on the presence of tropane alkaloids (atropine and/or scopolamine) in food with detailed information on the stage in the production and distribution chain where the sample was taken.

The EU supports the request to JECFA to carry out a risk assessment related to the presence of tropane alkaloids in food. The assessment should also include the presence of tropane alkaloids in food of animal origin following the transfer of tropane alkaloids in feed to food of animal origin.

In case the CCCF17 decides that the discussion paper needs further development, the EU suggests that in the discussion paper the presence of tropane alkaloids in feed and the transfer from feed to food of animal origin should be addressed. Recent research has found that tropane alkaloids transfer from feed to food of animal origin, in particular milk³.

Agenda Item 12: Discussion paper on acrylamide in foods

*Mixed Competence
European Union Vote*

The European Union (EU) welcomes and appreciates the work of India as chair and Saudi Arabia as co-chair of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/12 on acrylamide in foods.

The EU supports the further development of the discussion paper in particular in view of identifying the need for updating the existing Codex Code of Practice for the reduction of acrylamide in foods (CXC 67-2009). Therefore, members should be requested to identify additional risk mitigation measures to reduce acrylamide presence (i.e. not yet mentioned in the current Code of Practice) or which risk mitigation measure currently mentioned in the Code would need to be updated taking into account scientific and technological progress and experience.

A call for data on the presence of acrylamide in food could be issued.

Before issuing a call for toxicity data, a discussion would need to be taken place if a re-evaluation of acrylamide by JECFA is appropriate.

Agenda Item 13: Request for comments on the recommendation for the establishment of maximum levels for cadmium and lead in quinoa

*European Union Competence
European Union Vote*

The European Union (EU) welcomes and appreciates the work on the maximum levels (MLs) for lead and cadmium in quinoa by the Joint FAO/WHO JECFA Secretariat.

The EU considers that enough evidence is available for establishing MLs for cadmium and lead in quinoa.

³ Transfer of tropane alkaloids (atropine and scopolamine) into the milk of subclinically exposed dairy cows <https://doi.org/10.1016/j.foodcont.2021.108056>

For cadmium in quinoa

The EU can support the extension of the ML of 0.1 mg/kg for cadmium in cereals to quinoa. In the EU the tolerable weekly intake (TWI) for cadmium is exceeded for many consumers. Therefore, MLs for cadmium in food should be set at levels, which are as low as reasonably achievable. Cereals are relevant contributors to the exposure of cadmium. By splitting up food categories into smaller sub-categories, such as specific cereals, the contribution of each specific cereal to the exposure will be lower. However, this doesn't change the fact the combined exposure to cadmium from all cereal species, results in a significant contribution to the exposure to cadmium, which should therefore be limited as much as possible.

For lead in quinoa

The EU prefers not to extend the ML of 0.2 mg/kg for cereals to quinoa, however on the basis if the available occurrence data the EU can support the proposed ML of 0.1 mg/kg. The EU considers that, because there is no safe threshold for lead exposure, MLs for lead in food should be set at levels, which are as low as reasonably achievable. Cereals, including quinoa, are relevant contributors to the exposure of lead. Therefore, an ML of 0.1 mg/kg for lead in quinoa should be set, with a view of lowering the combined exposure to lead from all cereal species.

Agenda Item 14: Review of the Code of Practice for the Prevention and Reduction of Aflatoxin Contamination in Peanuts (CXC 55-2004)**Mixed Competence
Member States Vote**

The European Union and its Member States (EUMS) welcome and appreciate the work of Brazil as chair of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/14 on the review of the Code of Practice for the Prevention and Reduction of Aflatoxin Contamination in Peanuts (CXC 55-2004).

The EUMS support the revision of the Code of Practice for the Prevention and Reduction of Aflatoxin Contamination in Peanuts (CX55-2004) in line with the information provided in Appendices II and III of CX/CF 24/17/14. At this stage the EUMS have no major comments to make to the suggested changes but more detailed comments will be provided during the development of the Code of Practice.

The EUMS support therefore the proposal for new work on the revision of the Code of Practice for the Prevention and Reduction of Aflatoxin Contamination in Peanuts.

In the project document in Appendix I of CX/CF 24/17/14 under point 6 it is mentioned that the Code of Practice is important to support the implementation or development of MLs for aflatoxin contamination in peanuts. As regards the reference of the importance of this Code of Practice for the development of MLs for aflatoxin contamination in peanuts, the EUMS seek clarification as regards the relation between the finalisation of the review of this Code of Practice and the timing of the establishment of maximum levels for total aflatoxins in ready-to-eat peanuts, currently under discussion in CCCF.

The EUMS agree to forward the project document to CCEXEC and the CAC for approval as new work.

The EUMS are of the opinion that it is more appropriate to use the proposed revised Code of Practice for the Prevention and Reduction of Aflatoxin Contamination in peanuts as provided in Appendix III of CX/CF 24/17/14 as starting document for the discussion in the EWG following approval by CAC of this new work instead of issuing a circular letter for comments immediately after CCCF17 before the work in the EWG on the further development of the CoP has started.

Agenda Item 15: Review of the Code of Practice for the Reduction of Aflatoxin B1 in Raw Materials and Supplemental Feedingstuffs for Milk-Producing Animals (CXC 45-1997)**Mixed Competence
Member States Vote**

The European Union and its Member States (EUMS) welcome and appreciate the work of Canada as chair of the Electronic Working Group to prepare the discussion paper CX/CF 24/17/15 on the review of the Code of Practice for the Reduction of Aflatoxin B1 in raw materials and supplemental feedingstuffs for milk-producing animals (CXC 45-1997).

The EUMS support the revision of the Code of Practice for the Reduction of Aflatoxin B1 in raw materials and supplemental feedingstuffs for milk-producing animals and agree to forward the project document provided in Appendix I of CX/CF 24/17/15 to the CAC for approval.

The EUMS agree that the information provided in paragraphs 14 to 35 of CX/CF 24/17/15 should be considered in the review and update of the Code of Practice.

The EUMS also agree to use the relevant information in the Code of Practice for Mycotoxins in Cereals (CXC 51-2003) and in the Codes of Practice for Aflatoxins in Peanuts (CXC 55-2004) and Tree Nuts (CXC 59-2005) for updating this Code (CXC 45-1997).

Agenda Item 16: Development of a Code of practice for the prevention and reduction of cadmium contamination in foods

Mixed Competence Member States Vote

The European Union (EU) and its Member States (EUMS) welcome and appreciate the work of the United States of America on the discussion paper on the development of a code of practice (CoP) for the prevention and reduction of cadmium contamination in foods.

The EUMS consider that sufficient information on cadmium sources and mitigation measures is available, to recommend the development of a CoP for the prevention and reduction of cadmium contamination in foods.

As for certain commodities specific mitigation measures should be recommended, the EUMS agree to add annexes to the CoP with commodity-specific recommendations. In view of the fact that the CoP for the prevention and reduction of cadmium contamination in cocoa beans was extensively discussed and was adopted in the meanwhile, in order to avoid a duplication of work, the EUMS propose not to adapt the CoP for the prevention and reduction of cadmium contamination in cocoa beans as an annex, but rather to make in the annexes a reference to this CoP.

The EUMS agree on the approach outlined in Appendix III. The main text of the CoP should recommend general measures, that are applicable to a wide range of commodities and, where needed, some examples of such commodities can be given. Only in the case of recommended mitigation measures that are very specific and/or very detailed for a certain commodity, these could be included in an Annex in a commodity specific CoP. For example:

- Paragraph 25: ~~'When growing rice~~ **For products grown under wet conditions (for example rice)**, controlling flooding cycles to increase time spent in flooded conditions, can limit cadmium absorption into plants, as cadmium is less bio-available under flooded, anaerobic conditions.' Possible more detailed recommendations (e.g. details on the development stages of rice, for which flooding conditions might have the most effective impact on the cadmium concentrations in rice) could be included in an additional CoP for the prevention and reduction of cadmium contamination in rice in an Annex.
- Paragraph 26: ~~'Recommendations identified in the Code of Practice for the Prevention and Reduction of Cadmium Contamination in cocoa beans (CXC 81-2022) to reduce cadmium levels during cocoa growing include~~ **The use of cover crops to improve soil organic matter and to protect from soil erosion, and the removal of pruned cocoa limbs materials from the ground, and mucilage draining of cocoa during fermentation can reduce the cadmium concentration in certain crops (for example in cacao beans cfr. CXC 81 2022).'**

Furthermore, the EUMS would like to suggest the following change:

- Paragraph 26: 'A recommendation on mucilage draining for cocoa beans seems to fit better under the chapter 'Food ingredients and processing'. A reference to the CoP on for the prevention and reduction of cadmium contamination in cocoa beans could be added.

The EUMS agree to forward the project document to CCEXEC and the CAC for approval as new work.

The EUMS are of the opinion that it is more appropriate to use the proposed Code of Practice for the Prevention and Reduction of Cadmium Contamination in Foods as provided in Appendix III of CX/CF 24/17/16 as starting document for the discussion in the EWG following approval by CAC of this new work, instead of issuing a circular letter for comments immediately after CCCF17, before the work in the EWG on the further development of the CoP has started.

Agenda Item 18: Review of Codex standards for contaminants***Mixed Competence
European Union Vote***

The European Union and its Member States (EUMS) welcome and appreciate the work done by Canada on a structured approach to review the Codex standards and related texts for contaminants in feed and food and wishes to provide following comments:

The EUMS can support the updates and revisions, as described in points 3-7.

The EUMS do not propose to add additional standards from lists A and B to the overall highest priority list (OHPL) or to put forward standards from the OHPL that could be considered an overall highest priority.