

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
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World Health
Organization

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Agenda Item 4, 5 and 6

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CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS

Twenty-seventh Session

(Comments submitted by Malaysia)

Agenda item 4: PROPOSED DRAFT CONSOLIDATED CODEX GUIDELINE RELATED TO EQUIVALENCE, AT STEP 3/4

Malaysia thanks the EWG Chair New Zealand and Co-Chairs the United States of America and Kenya as well as the EWG members for preparing the proposed draft consolidated guideline. Malaysia would like to provide some comments as follows –

SECTION 1: PREAMBLE, para 4.

We are of the view that it is time for CCFICS to decide whether the consolidated draft will replace the 3 guidelines related to equivalence i.e. CXG 34-1999, CXG 53-2003 and CXG 101-2023. We support CCFICS to work towards replacement of the current guidelines.

SECTION 4 DEFINITIONS:

- **Equivalence:** We are of the view that definition for equivalence should encompass both SPS or TBT measures that makes a NFCS. We do not agree to replace specified measure to specific sanitary measure that we believe change the intent of original wordings where equivalence arrangement could apply to a specified/specific measure whether its SPS or TBT. More discussion on the proposed change would be beneficial.
- **Technical measure:** Since this term is not used in TBT agreement it would rather appropriate to use terms from the agreement to reflect TBT measures, as what is agreed in CXG 101-2023 - technical regulations, conformity assessment procedures or standards.
- Definitions for Measure, NFCS Objective, Outcomes and Requirements are not necessary.

SECTION 4 PRINCIPLES: Editorial error. It should be renumbered into Section 5.

Agenda item 5: DRAFT GUIDELINES ON THE PREVENTION AND CONTROL OF FOOD FRAUD, AT STEP 3/4

Malaysia thanks the EWG Chair the United States of America and co-chairs China, European Union, Islamic Republic of Iran, and United Kingdom and the EWG members for preparing the draft guideline. Malaysia would like to provide some comments as follows –

Section 1: Preamble / Introduction

[6 bis. Fundamental to the successful functioning of any food fraud combatting strategy is the establishment and maintenance of an anti-food fraud culture acknowledging the importance of human behaviours in

protecting integrity of the food supply chain and presenting food/feed in a manner so as not to deceive consumers.] - Should sub-paragraph “6 bis” be retained?

Malaysia has no objection to the idea of highlighting anti-food fraud culture. We propose some insertion to the text to provide some flexibility and to address the stakeholders. We note that this para links to para 10(f) the FBOs have the role and responsibility. FBO as legitimate product owner has a role to play since they will be impacted by fraud related to their product, and this could include fostering industry-wide collaboration and information sharing. Engaging industry associations and consumer advocacy groups could enhance collective efforts against food fraud. Our proposal-

*6 bis. Fundamental to the successful functioning of any food fraud combatting strategy is the ~~establishment and maintenance~~ **collaboration of stakeholders especially FBOs, industry associations and consumer advocacy groups** of an anti-food fraud culture, **fostering industry-wide collaboration and information sharing**, acknowledging the importance of human behaviours in protecting integrity of the food supply chain and presenting food/feed in a manner so as not to deceive consumers.*

Section 2: Purpose / Scope

The purpose is to provide guidance to competent authorities and FBOs on the prevention, detection, mitigation, and control of food fraud to help protect the health of consumers, and to ensure fair practices in food trade, including feed for food producing animals [that may impact human food safety]. Aspects related to food fraud are already addressed through many existing Codex texts; this guidance is intended to support or supplement existing Codex texts by providing additional guidance specific to food fraud that can be considered within NFCS³.

With regard to feed, Malaysia understands that the scope of the draft guidance is food fraud to help protect the health of consumers and to ensure fair practices in food trade, and this includes situation where food fraud is due to deceptive practices related to feed which may impact both consumer health and fair-trade practices. If feed is to be explicitly mentioned in the scope, both reference to food safety and fair-trade practices should be maintained since prevention of fraud is not only for food safety purposes but also to ensure authenticity and integrity in the supply chain.

With regard to footnote 3, Malaysia generally agrees that issues of Intellectual Property, such as Geographical Indications are better governed by other body i.e. WIPO, as such we can agree to retain footnote 3 - to exclude issues of intellectual property from the scope of this proposed draft guideline.

Footnote 3 - [Issues of intellectual property, such as geographic indicators and related labeling restrictions which do not represent a risk to public health and are beyond the scope of Codex are not addressed within this guideline.]

Para 7bis.

[the investigation and prosecution of food fraud offenses are outside the scope of this guideline and need to be handled by countries under their respective laws.]

Malaysia is flexible to the inclusion of 7bis, to exclude investigation and prosecution activities, since the scope of this guideline is in prevention, detection, mitigation, and control of food fraud. We are not aware of Codex texts that goes into prosecution.

Section 5: Principles

Principle 1

Malaysia prefers “fair trade practices” to be retained as it is more wholistic and aligns with Codex mandate.

“NFCS can reduce the risk of food fraud by having measures, proportionate to the level of risk, in place to prevent, detect, mitigate, and control food fraud, including surveillance and monitoring activities in order to protect consumers and ~~[the integrity of the food supply chain]~~ [fair trade practices].

Principle 2

Malaysia has no objection to the Principles 1 and 2, however stakeholder engagement is crucial for effective food fraud prevention. Both the principles only reflects competent authority roles, but not other stakeholders i.e. FBOs and consumer.

Section 6: Roles and Responsibilities, para 10 (FBO)

Para 10 - We are of the view many of the responsibilities in this para must be undertaken by the FBO to prevent and manage food fraud. Compliance to regulations and presenting food in a manner not misleading or deceptive are not an option. Other items already indicated flexibility to FBO in accordance susceptibility to food fraud/ as reasonable. As such the word as appropriate in para 10 should be deleted.

Para 10b.bis can be deleted as 10e is sufficient.

Section 8: Cooperation, collaboration and exchange of information between competent authorities

Q7 Should this new para. be included?¹⁵ *ter. Enhance collaboration to better integrate neutral technologies and use of data mining and machine learning technologies in the food chain which can aid in more effectively preventing food fraud.*

Malaysia sees value to highlight the importance of exchanging on technologies, but reference to specific element i.e. use of data mining and machine learning technologies is not appropriate as advancement of technologies varies from country to country and collaboration between country competent authorities depends on many factors or priorities.

Agenda item 6: DRAFT PRINCIPLES AND GUIDELINES ON TRACEABILITY/PRODUCT TRACING WITHIN A NATIONAL FOOD CONTROL SYSTEM (at Step 3)

General Comments

Malaysia thanks the US, UK and the EWG members for preparing the draft for the revised principles and to include more guidance on the traceability within a national food control system. Malaysia welcomes the revision taking into consideration development in technologies and continuous enhancement to NFCS in ensuring food safety and fair-trade practices. Nevertheless, the current drafting especially when terms like 'interoperability' or 'data management system' are used throughout the document, it seems to refer to digital tools while other parts of the document states that traceability/product tracing system should be technology neutral.

The format of the draft guideline could be further improved to clearly differentiate the principles for traceability and other sections such as roles and responsibilities etc. taking reference of more recent CCFICS text e.g. CXG 102-2023.

We note of substantial changes made and appreciates opportunity to contribute and deliberate the proposed draft revision. Our specific comments on the text are as given in specific sections/ para as below-

PREAMBLE

1. [Traceability/product tracing consists of acquiring information about food products, which can be retrieved along the supply chain all the way to the consumer.] Traceability/product tracing may be applied, when and as appropriate, within a National Food Control System (NFCS) to contribute to the protection of consumers against foodborne hazards and fraudulent or deceptive practices, and to facilitate trade, such as on the basis of accurate product description.

Malaysia comments

Para 1 - Malaysia proposed some amendments to the text –

Traceability/product tracing consists of acquiring information about food products which can be retrieved **at the specified stages** along the supply chain **all the way to the consumer**.

7. The availability and application of new technology, such as digital tools, may facilitate traceability/product tracing by enabling faster access to food supply chain information. Digital tools can improve communication across food supply chains and play an essential part in enhancing traceability to effectively manage and respond to risks. For this to work, the digital technologies rely on guidelines and standards so that the data exchanged are interoperable and are enable communication across the food supply chain.

Malaysia comments

Para 7 - It is not clear which 'guidelines and standards' this para is referring to. If it is to link digital technologies to the requirements or designs explained in this draft guideline it should be rephrased for clarity, otherwise it should be removed as it is confusing.

Editorial error - ... ~~and are~~ enable communication across the food supply chain.

- 7bis. This guideline should be read in conjunction with all relevant Codex texts as well as those adopted by IPPC and WOA, as appropriate.

Malaysia comments

Para 7 bis - IPPC and WOA text were not referred to when developing this guideline, as such this text is not appropriate. Without reference to the relevant IPPC and WOA texts, this addition of this text does not provide sufficient guidance to the readers. We are of the view para 7 bis is not needed

SCOPE

8. This document provides guidance to assist competent authorities on establishing traceability/product tracing as part of their NFCS. It also provides guidance to food business operators (FBOs) on implementation of traceability/product tracing within their food operations and throughout the food supply chain.

Malaysia comments

Para 8 - Competent Authority (CA) usually establish traceability requirement while FBO develop system that complies and implement it. Other parts of this revised guideline describe CA roles in establishing traceability/product tracing requirements, designing the system and implementing. As such, we propose some addition to clarify what guidance is provided to CA in this document, as follows-

*This document provides guidance to assist competent authorities on establishing traceability/product tracing **requirements and/or system as appropriate**, as part of their NFCS. It also provides guidance to food business operators (FBOs) on implementation of traceability/product tracing within their food operations and throughout the food supply chain.*

DEFINITIONS

9. Where words in this document have been defined in previous Codex texts, those definitions apply in this document (see Appendix 1). Otherwise, the following definitions apply:

Malaysia comments

Para 9 - Existing definition in Appendix 1

Malaysia generally supports for definitions that are needed for the understanding of the text should be retained in definition section. We can agree not to include the definitions in Appendix 1 since it is a common definition and has been taken into consideration under 7bis., where this guideline should be read together with all relevant Codex texts. As such definition section can right away starts with list of definitions.

~~9. Where words in this document have been defined in previous Codex texts, those definitions apply in this document (see Appendix 1). Otherwise, the following definitions apply:~~

Traceability/product tracing¹: the ability to follow the movement of a food or food ingredient through specified step(s) of production², processing, and distribution³.

Traceability/product tracing system: the mechanism established to collect, process, visualize, and analyze traceability data and information.

Malaysia comments

It is established that different traceability/product tracing systems may achieve the same objectives and outcomes as such the system if defined should be reflect an open system. Proposed changes -

Traceability/product tracing system: *the mechanism established to collect, process, visualize, and analyze traceability data and information, as appropriate.*

PRINCIPLES

10. These principles cover the context, rationale, design, and application of traceability/product tracing within an NFCS.

- a. Traceability/product tracing should be designed to support NFCS objectives

Robust traceability/product tracing that can identify and extract reliable data/information about the sourcing or movement of a food and/or any of its ingredients and packaging, as well as associated process steps, is an important part of a well-functioning NFCS.

- b. Traceability/product tracing requirements should be proportionate to risk

Competent authorities and FBOs should consider the risk posed by and to food products and the capabilities and resources of competent authorities and FBOs to manage those risks. At a minimum, traceability/product tracing should be one step forward and one step back.

Malaysia comments

PRINCIPLES, Para 10(a) We propose to move the elements of minimum one step forward and one step back from 10(b) in here since 10(a) is about the design of traceability, and to delete the last part of the text since it is not necessary. Further, first para explanation in 10(c) could be moved to 10a since it is about the design of traceability. It would read-

- a. *Traceability/product tracing should be designed to support NFCS objectives*

*Robust traceability/product tracing ~~that can~~ **should be able to** identify and extract reliable data/information about the sourcing or movement of a food and/or any of its ingredients and packaging, as well as associated process steps, ~~is an important part of a well-functioning NFCS.~~*

At a minimum, traceability/product tracing should be one step forward and one step back.

Competent authorities should consider the entire food supply chain when designing and implementing traceability/product tracing within an NFCS. The application of traceability/product tracing should be practical, be technically feasible, be economically viable for a FBO and within an NFCS, and avoid unnecessary burdens.

10(b) Malaysia can agree to Canada's proposed amendment to this principle 10(b). In our view while traceability/product tracing should be at a minimum, one step forward and one step back, the risk

¹ Original definition from the Codex Procedural Manual. Footnotes added for additional explanation/reference.

² Production can include a primary production which is those steps in the food chain up to and including storage and, where appropriate, transport of outputs of farming. This would include growing crops, raising fish and animals, and the harvesting of plants, animals or animal products from a farm or their natural habitat. (CXC 1-1969)

³ Distribution includes distribution to the customer level. Can include, among others, handling, storage, and transportation.

proportionality in 10b refers to extent of the traceability beyond this minimum requirement. Accordingly, we propose to delete the last sentence that is moved to 10(a) as follows –

- b. ***The extent of*** traceability/product tracing requirements should be proportionate to risk

Competent authorities and FBOs should consider the risk posed by and to food products and the capabilities and resources of competent authorities and FBOs to manage those risks. ~~At a minimum, traceability/product tracing should be one step forward and one step back.~~

- c. Traceability/product tracing should facilitate the exchange of data/information along the food supply chain, including between FBOs and competent authorities.

Competent authorities should consider the entire food supply chain when designing and implementing traceability/product tracing within an NFCS. The application of traceability/product tracing should be practical⁴, be technically feasible, be economically viable for a FBO and within an NFCS, and avoid unnecessary burdens.

Traceability/product tracing should improve communication among the involved parties; improve the standardization, appropriate use, and reliability of data/information; and improve effectiveness and productivity of the organization.

- d. Traceability/product tracing should support the exchange of data/information throughout the food supply chain (interoperability)

Interoperability between systems can support competent authorities of exporting and importing countries and FBOs to exchange data/information across different systems without the need for all entities to be on a single operational, proprietary, or technology platform

Malaysia comments

Para 10(c) - We propose first para explanation in 10(c) to be moved to 10(a) since it is about the design of traceability. We also propose to merge c and d since the principle text is very similar.

10(c) - Traceability/product tracing should facilitate the exchange of data/information along the food supply chain, including between FBOs and competent authorities.

~~*Competent authorities should consider the entire food supply chain when designing and implementing traceability/product tracing within an NFCS. The application of traceability/product tracing should be practical⁴, be technically feasible, be economically viable for a FBO and within an NFCS, and avoid unnecessary burdens. – to move to (a)*~~

Traceability/product tracing should improve communication among the involved parties; improve the standardization, appropriate use, and reliability of data/information; and improve effectiveness and productivity of the organization.

~~***d. Traceability/product tracing should support the exchange of data/information throughout the food supply chain (interoperability)***~~

Interoperability between systems can support competent authorities of exporting and importing countries and FBOs to exchange data/information across different systems without the need for all entities to be on a single operational, proprietary, or technology platform.

- e. The implementation of traceability/product tracing within an NFCS should not be more trade restrictive than necessary.
- f. Different traceability/product tracing systems may achieve the same objectives and outcomes.

It should not be mandatory for an exporting country to replicate (i.e., establish the same) the traceability/product tracing requirements or system as used by the importing country, when applicable.

⁴ For example, for raw agricultural commodities that may be comingled during collection.

Malaysia comments

Para 10 (f) - Malaysia has some concerns on the text of Principle 10 (f), where it can be interpreted that exporting countries is not mandatory in adhering to traceability requirements.

It also contradicts with para 11 where competent authority has the responsibility to establish and implement appropriate legal requirements for traceability/product tracing. As such, we suggest the following revision:

f. Different traceability/product tracing systems may achieve the same objectives and outcomes.

It should not be mandatory for an exporting country to replicate (i.e., establish the same) the traceability/product tracing ~~requirements or~~ system as used by the importing country, ~~when applicable.~~

Responsibilities**Malaysia comments**

Consistent with the change to the title into principles and guidelines, this point forward should be a new section – **ROLES AND RESPONSIBILITIES**. The heading of Responsibilities, Legal Requirements, Good practice, Information protection, Traceability/ product tracing system design Communication and Cooperation should be in capital letter to indicate it is not part of the Principles. The subheadings should be numbered for ease of reference like recent CCFICS document e.g. CXG 102-2023

11. Competent authorities have the following responsibilities:

- b. Develop and maintain appropriate infrastructure to access, manage, and assess traceability/product tracing data/information.

Malaysia comments

Para 11b. Malaysia is of the view that the term 'infrastructure' should be replaced with the word 'mechanism' that would be more appropriately described a system to access, manage, and assess traceability/product tracing data/information rather than 'infrastructure' which may be interpreted as more of physical infrastructure.

11b. Develop and maintain appropriate ~~infrastructure~~ mechanism to access, manage, and assess traceability/product tracing data/information.

Legal requirements

13. Traceability/product tracing should at a minimum be able to identify at any specified stage of the food chain from where the food came (one step back) and to where the food went (one step forward), as appropriate to support the NFCS objectives.

Malaysia comments

Para 13 - Information in para 13 has been captured in Principle, para 10(a). We propose para 13 to be deleted.

Good practice**Malaysia comments**

It well established that Codex guidelines will comprise of recommendations, as such we do not support the title of this Section. We believe para 16-19 can be placed under **Section Traceability/product tracing system design** and rearrange accordingly, as such this section title can be deleted.

Traceability/product tracing system design**Malaysia comments**

Editorial comments - The section title should be in capital letters_‘**TRACEABILITY/PRODUCT TRACING SYSTEM DESIGN**’.