



**JOINT FAO/WHO FOOD STANDARDS PROGRAMME
CODEX COMMITTEE ON FRESH FRUITS AND VEGETABLES**

17th Session

Mexico City, Mexico, 3 – 7 September 2012

**REVISION OF THE TERMS OF REFERENCE OF THE
CODEX COMMITTEE ON FRESH FRUITS AND VEGETABLES**

(Prepared by the Codex Secretariat)

BACKGROUND

1. The UNECE Working Party on Agricultural Quality Standards develops agricultural marketing standards to facilitate trade with and within the Economic Commission for Europe (ECE) Region as set out in the Geneva Protocol which constitutes the legal basis for the operation of the UNECE Working Party and its subsidiary bodies such as the Specialized Section on Standardization of Fresh Fruits and Vegetables. The Terms of Reference of the Working Party establish that the WP shall cooperate with other standard-setting bodies, particularly with the Codex Alimentarius Commission, to avoid duplication of work and divergence in standards¹. The Working Procedures of the Working Party allow all members of the United Nations to participate in the work of the Working Party and its subsidiary bodies on equal footing. However, the Working Party does not qualify as one of the global programmes carried by the UNECE under the special allowance of the Economic and Social Council of the United Nations. This is linked to the reply of the UN Legal Counsel in relation to the global status of Codex standards as related to UNECE standards i.e. “UNECE standards are *de facto* used internationally, but there are also *de jure* international standards agreed within the Codex Alimentarius Commission”.
2. The Codex Committee on Fresh Fruits and Vegetables is entrusted with the elaboration of worldwide standards and related texts for fresh fruits and vegetables. As established in its Terms of Reference this task is performed in consultation with the UNECE Working Party on Agricultural Quality Standards to ensure that there is no duplication of standards and that they follow the same broad format. The TOR also acknowledge consultation, as necessary, with other international organizations which are active in the area of standardization of fresh fruits and vegetables. In addition, the Terms of Reference of the CCFFV set out the working arrangements between the CCFFV and the UNECE.²
3. The consultative process described in the Terms of Reference of the CCFFV states that the UNECE Working Party on Agricultural Quality Standards may 1) recommend the elaboration of a worldwide Codex standard and submit the recommendation to the CCFFV or the Commission for approval 2) prepare “proposed draft standards” for fresh fruits and vegetables at the request of the CCFFV or the Commission for distribution by the Codex Secretariat at Step 3 and for further action by the CCFFV 3) consider “proposed draft standards” and “draft standards” for fresh fruits and vegetables and transmit its comments to the CCFFV at Steps 3 and 6 of the Codex Procedure and 4) perform specific tasks in relation to the elaboration of standards for fresh fruits and vegetables at the request of the CCFFV.
4. Therefore, at present both parties include in their respective mandates the cooperation (UNECE) and consultation (CCFFV) process and therefore are equally bound by the need for cooperation and/or consultation.
5. The full mandate of the CCFFV is provided in the Annex for easy reference.
6. The Commission and the Executive Committee have, on several occasions, stressed the need for: close cooperation in order to avoid duplication of work; exchange of information between the two parties concerned while recognizing that harmonization of standards for these commodities is important and that the broadest possible consensus on all international standards need to be achieved; and for cooperation and coordination with the UNECE towards the elaboration of harmonized standards without duplication of effort. While avoiding any unnecessary duplication of work, the collaboration would benefit both Codex and UNECE by allowing the Commission to use UNECE standards as a base for developing Codex standards and in doing so to give UNECE the international recognition to its standards.

¹ <http://www.unece.org/trade/agr/aboutus.html>

² Procedural Manual of the Codex Alimentarius Commission, Section V.

7. In order to re-emphasize cooperation between the CCFFV and the UNECE, the Executive Committee has recommended that the CCFFV takes UNECE standards as starting point for the development of corresponding Codex standards, and, in order to facilitate this process, relevant UNECE standards are distributed as working documents for the Committee when like products were being considered. Also, information on matters arising from other international organizations engaged in the standardization of fresh fruits and vegetables i.e. UNECE and OECD, constitutes a standing item on the agenda of the Committee.³

8. Therefore, both parties have consistently called upon for avoiding duplication of work and for the development of harmonized standards even if both mandates do not specifically refer to “harmonization” but to “consultation and cooperation” in the development of international quality standards for fresh fruits and vegetables.

9. At the 16th Session of the CCFFV (Mexico, May 2011) when considering common provisions to fresh fruits and vegetables several delegations felt that discussion on products for which there were already existing UNECE standards seemed to be limited to adopting the UNECE standard with the safety horizontal provisions pertaining to the Codex commodity standards in view of comments of a number of Codex members to align the provisions in the standards with the corresponding UNECE standards. Some delegations also felt that consultation with the UNECE was in practice difficult in view of the different working procedures, meeting intervals and decision-making process which may lead to delays in the finalization of the standards. In this regard, the comments from the (i) Executive Committee⁴ and the (ii) CCFFV⁵ are noted that (i) in some cases development of standards in the CCFFV had taken longer because of regional differences and the need in accordance with its terms of reference to consult with the UNECE and (ii) efforts for harmonizing the standard layouts could facilitate harmonization of general requirements so that the Committee could better focus on the provisions particular to the produce that may differ between Codex and UNECE standards.

10. Several member countries who attended the last session of the CCFFV felt that clarification is needed on the TOR of the CCFFV in relation to the practical implementation of the “consultation with the UNECE” and whether the result of the consultative process should be having harmonized standards and if so whether this will imply two identical standards or would allow for a certain degree of divergence in view of the respective goals/mandate of both parties and Codex’s broader membership. Other countries felt that reference to the UNECE should be removed from the TOR in order to release the CCFFV from adhering to UNECE standards and that this would result in speeding up the development of Codex standards for fresh fruits and vegetables.⁶

11. The 59th Session of the UNECE Specialized Section on Standardization of Fresh Fruits and Vegetables (Geneva, May 2011) provided some comments on how they understand the mandate of the UNECE in relation to cooperation with the CCFFV and indicated that the aim of cooperation should be the harmonization of technical provisions when CCFFV and UNECE have standards for the same products. The differences in working procedures, meeting intervals and decision-making process should not be an obstacle to amend or revise the standards to reflect current trading practices provided that both parties grant each other time to reflect and check the result before approving the standard. The same reflection would apply to working in parallel on the same product⁷.

12. At the 65th Session of the Executive Committee (Geneva, July 2011), the Coordinator for Latin America and the Caribbean speaking also as Chairperson of the Codex Committee on Fresh Fruits and Vegetables (CCFFV) informed the CCEXEC that the Delegation of Colombia had asked to raise the issue of the terms of reference of the CCFFV in the Executive Committee, in particular concerning the way they related to the UNECE Working Party on Agricultural Quality Standards and whether the harmonization mechanism written into the TORs of the CCFFV meant that identical standards should be reached, which was difficult given that the Codex membership was much wider than that of UNECE and thus different considerations had to be made.

13. The Executive Committee agreed that the Commission should recommend to the CCFFV to consider its terms of reference and after completion send them to the Codex Committee for General Principles for review.⁸

14. The 34th Session of the Codex Alimentarius Commission (Geneva, July 2011) noted the proposal from the Delegation of Colombia to consider the revision of the Terms of Reference of the CCFFV vis-à-vis the recommendation of the Executive Committee.

15. The Delegation of the European Union noted that the Terms of Reference of the UNECE Working Party on Agricultural Quality Standards established that the Working Party shall cooperate with the CCFFV in order to ensure that the consultation process worked reciprocally. In this regard, the consultative process with the UNECE, as set out in the Terms of Reference of the CCFFV, could greatly facilitate the work of the Committee by providing a positive input to the standards development in the CCFFV, in particular the consideration of UNECE standards. If Codex members had concerns about the consultative process with the UNECE, the Commission could clarify the issue as follows: “The ultimate goal of the consultation process between Codex and the UNECE should be the development of harmonized standards to ensure fair trade practices. However, this does not mean that Codex standards should be identical to UNECE standards as certain level of divergence might be in practice unavoidable to accommodate the needs of Codex mandate and broader membership”.

³ ALINORM 97/3, para. 15, ALINORM 99/4, para. 19, ALINORM 95/37, para. 32 and ALINORM 99/37, para. 206.

⁴ ALINORM 10/33/3A, para. 102.

⁵ REP11/FFV, para. 21.

⁶ REP11/FFV, paras. 124-138.

⁷ ECE/TRADE/C/WP.7/GE.1/2011/3, paras. 12-15

This report is available for downloading at: <http://live.unece.org/trade/agr/meetings/ge.01/2011-in-session.html>

⁸ REP11/EXEC, paras. 160-162.

16. The Delegation of Mexico, speaking as Chair of the Committee on Fresh Fruits and Vegetables, requested that, if the Terms of Reference were to be discussed at the next session of the CCFFV, the Codex Secretariat should prepare a background document on the history and linkages between the CCFFV and the UNECE in order to assist the Committee to make an informed decision.

17. The Commission agreed to recommend to the CCFFV to consider its Terms of Reference and that result of its consideration could be forwarded to the CCGP for review if necessary.⁹

Conclusion

18. The goal of the consultation process is the development of harmonized standards in order to ensure fair trade practices. However, certain degree of divergence might be needed or is in practice unavoidable to accommodate the needs of Codex's broader membership.

19. The working arrangements to implement the consultative process are set out in the Terms of Reference of the CCFFV to allow both parties to consult in the development of quality standards for fresh fruits and vegetables in order to ensure harmonization of Codex and UNECE standards.

20. However, in view of the different goals, meeting intervals, working procedures and decision-making process in both parties, the CCFFV may wish to consider whether the current working procedures are sufficient to implement the consultation process in such a way to allow the minimum differences between Codex and UNECE standards and if not to consider possible ways of improving the consultative process. However, while doing so, it might also wish to first clarify its interpretation of

- "harmonization" in the framework of cooperation between Codex and the UNECE;
- how the UNECE Layout should be respected for those provisions related to quality and the Codex Format for Commodity Standards should be respected for those provisions related to safety; and
- the recommendation to use UNECE standards as a starting point in the development of corresponding Codex standards vis-à-vis its recommendation on the need to develop harmonized standards.

21. The CCFFV may also wish to consult with the UNECE on how the consultation process could be improved and strengthened based on the above considerations.

22. If after this discussion and consultation with the UNECE, the CCFFV comes to the conclusion that a consultative process cannot be implemented in practice, the CCFFV may wish to consider the removal of the reference to the UNECE from its mandate.

23. The Committee may also decide that point (c) of its Terms of Reference namely "to consult, as necessary, with other international organizations which are active in the area of standardization of fresh fruits and vegetables" is sufficient to ensure collaboration and cooperation with the UNECE and other relevant international organizations and ensures consistency with the mandate of the Commission to (b) promoting coordination of all food standards work undertaken by international governmental and non-governmental organizations and Goal 4 of the Codex Strategic Plan 2008-2013 "Promoting cooperation between Codex and other relevant international organizations".

⁹ REP11/CAC, paras. 254-257.

ANNEX

CCFFV	Codex Committee on Fresh Fruits and Vegetables
Terms of reference	<p>(a) to elaborate worldwide standards and codes of practice as may be appropriate for fresh fruits and vegetables;</p> <p>(b) to consult with the UNECE Working Party on Agricultural Quality Standards in the elaboration of worldwide standards and codes of practice with particular regard to ensuring that there is no duplication of standards or codes of practice and that they follow the same broad formatⁱⁱ;</p> <p>(c) to consult, as necessary, with other international organizations which are active in the area of standardization of fresh fruits and vegetables.</p> <p>*The Working Party on Agricultural Quality Standards of the United Nations Economic Commission for Europe:</p> <ol style="list-style-type: none"> 1. may recommend that a worldwide Codex standard for fresh fruits and vegetables should be elaborated and submit its recommendation either to the Codex Committee on Fresh Fruits and Vegetables for consideration or to the Commission for approval; 2. may prepare “proposed draft standards” for fresh fruits or vegetables at the request of the Codex Committee on Fresh Fruits and Vegetables or of the Commission for distribution by the Codex Secretariat at Step 3 of the Codex Procedure, and for further action by the Codex Committee on Fresh Fruits and Vegetables; 3. may wish to consider “proposed draft standards” and “draft standards” for fresh fruits and vegetables and transmit comments on them to the Codex Committee on Fresh Fruits and Vegetables at Steps 3 and 6 of the Codex Procedure; and 4. may perform specific tasks in relation to the elaboration of standards for fresh fruits and vegetables at the request of the Codex Committee on Fresh Fruits and Vegetables. <p>Codex “proposed draft standards” and “draft standards” for fresh fruits and vegetables at Steps 3 and 6 of the Codex Procedure should be submitted to the UN/ECE Secretariat for obtaining comments.</p>