

# codex alimentarius commission



FOOD AND AGRICULTURE  
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Agenda Item 3 (a)

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**JOINT FAO/WHO FOOD STANDARDS PROGRAMME**  
**CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION**  
**AND CERTIFICATION SYSTEMS**

**Fifteenth Session**

**Mar del Plata, Argentina 6-10 November, 2006**

**PROPOSED DRAFT REVISION OF THE GUIDELINES FOR GENERIC OFFICIAL**  
**CERTIFICATE FORMATS AND THE PRODUCTION AND ISSUANCE OF CERTIFICATES**  
**(CAC/GL 38-2001)**  
**(N05-2005)**

**Comments At Step 3**

**(Argentina, Canada, New Zealand, the United States and**  
**the World Organization for Animal Health (OIE))**

**ARGENTINA**

Argentina appreciates the efforts of the Working Group to develop this document, as well as the opportunity to provide these comments.

**General Comments**

Argentina would like to point out that in the English version the paragraph numbering is incorrect, as paragraph numbers 41 and 42 are repeated, i.e. there are two paragraphs 41 and two paragraphs 42. The Spanish version, however, is correct. Argentina's comments are therefore based on the paragraph numbering of the Spanish version, on the understanding that the omission in the English version should be amended.

**Specific Comments**

Struck out, bold text: wording proposed to be deleted.

Bold text: new proposed wording.

Text in italics: wording quoted from the original document.

**SECTION 8—DESIGN OF CERTIFICATES**

Argentina suggests the inclusion of a new bullet point drafted as follows:

**“Include identification of the means of transport, the container and identification of the elements of security that may be applicable, where appropriate.”**

This request is due to the fact that a large number of official bodies require this type of information, which becomes indispensable to ensure that exported consignments are, in effect, those certified by the competent food inspection and certification authority.

## **SECTION 9 - ISSUANCE OF CERTIFICATES (RESPONSIBILITY OF CERTIFYING OFFICERS, SECURITY AND PREVENTION OF FRAUD)**

### **Fraudulent Certificates**

Argentina believes a distinction needs to be made between certificates deemed incomplete and incorrect and fraudulent certificates, so that the action taken to investigate the use of fraudulent certificates do not cause unduly delays when solving problems resulting from incomplete or incorrect import certification. Argentina believes that a clear distinction between these two certificates would also be useful in terms of the provisions under the *Guidelines for the Exchange of Information Between Countries on Rejections of Imported Food*, where reasons for rejection include incomplete or incorrect certification although no details are provided. For this reason, we believe some clarification should be made in this document.

Therefore, Argentina proposes to replace the subheading “**Fraudulent Certificates**” with “**Incomplete, or Incorrect, and Fraudulent Certificates**” for consistency with the item “Reason(s) for rejection” of the Annex “Standard Format for Exchange of Information between Countries on Rejections of Imported Food” of Standard CAC/GL 25-1997.

In addition, in order to define and distinguish the concepts established under the new subheading, Argentina proposes to incorporate a new paragraph 48, as well as a new wording for paragraph 49 (former paragraph 48)<sup>1</sup>. The new paragraph would be drafted as follows:

### **Incomplete, or Incorrect, and Fraudulent Certificates**

*Principle H. Competent authorities should take appropriate action to prevent the use of fraudulent certificates and should assist, as appropriate, in the timely investigation of such use.*

**New paragraph 48. Competent authorities should take appropriate action to clearly distinguish between an incomplete, or incorrect, official certificate so as not to investigate or retain, for an unduly long period of time, the imported consignment with incomplete, or incorrect, certification under the terms established by the competent authority of the importing country, under their control.**

**Reasons for considering an official certificate incomplete, or incorrect, may include: illegibility; lack of required information; period of validity expired or not complied with; inclusion of unauthorized alterations or deletions where they have not been amended by the competent authorities; inclusion of conflicting or inconsistent information; use of wording that is inconsistent with the attached certificate models; certification of prohibited products; non-certified and/or attested copies.**

**48. 49. When a competent authority suspects that an official certificate may be fraudulent, because of deliberate misrepresentation or other criminal activity, it should immediately commence an investigation and involve the certifying body of the country from which the fraudulent certificate is purported to have originated. Reasons for considering an official certificate fraudulent may include: unauthorized by the authority of the exporting country; use of models non-recognized by the authority of the exporting country; issued by people or other bodies unauthorized by the authority of the exporting country; signed by a certifying official unauthorized by the authority of the exporting country; apocryphal information; additions or amendments made after the issuance of the certificate, without the appropriate signature by the official certifying agency recognized by the authority of the exporting country..**

**Additionally, Where fraudulent certification is suspected, the competent authority of the importing country should retain the associated consignment under its control, pending the outcome of the investigation.**

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<sup>1</sup> These paragraph numbers are based on the Spanish version, where paragraph numbering is correct.

~~49.~~ **50.** *Certifying bodies in the countries from which the fraudulent certificate is assumed ~~purported~~ to have originated should cooperate fully with the investigation of the competent authority of the importing country. If the certificate is found to be fraudulent, every effort should be made by the competent authorities **of the country where the illicit act originated** to identify those responsible so that appropriate action can be taken according to national/regional law.*

~~50.~~ **51.** *The product relating to fraudulent certificates should be considered to be in violation of the importing country's requirements since the precise condition of the product is unknown. The product should be destroyed since destruction is a strong deterrent to future fraudulent activity.*

~~51.~~ **52.** *Competent authorities in importing countries should maintain current records of certificates from certifying bodies in pertinent exporting countries, including, in relation to paper certificates, copies of official stamps and marks.*

## CANADA

### General comments

Canada thanks the United States for leading the Working Group charged to advance this document. The document clearly and succinctly combines the key elements of previous documents related to production and issuance of certificates.

Canada's comments are mostly minor changes to eliminate redundant text and to clarify certain sections.

### Specific comments

#### SECTION 5 – USE OF CERTIFICATES

##### Paragraph 9

Canada proposes this Paragraph be deleted as the text is clearly repeated in the chapeau of Paragraph 10 and the first bullet.

#### SECTION 8 – DESIGN OF CERTIFICATES

##### Paragraph 26 – 3<sup>rd</sup> bullet

Reference is made in footnote 8 that “the quantity should be in accordance with the International System of Units (Modern Metric System)”. We recognize that not all countries operate within this system and hence, the requirement may be more restrictive than necessary and suggest addition of the following text “...or in the units agreed by the competent authorities”.

#### SECTION 9 – ISSUANCE OF CERTIFICATES

##### Paragraph 41 – 5<sup>th</sup> bullet

We recommend inserting the words “period of” before time to further clarify:

- the certificate bears the date, expressed unambiguously, on which the certificate was signed and issued and, where appropriate, the period of time for which the certificate will remain valid;

### **Paragraphs 41 and 42**

We note that two Paragraphs are numbered as 41, and also two paragraphs are numbered as 42. The second occurrence of paragraph 41 should be renumbered as 42, and the following paragraphs renumbered accordingly.

### **Paragraph 43**

We recommend some modifications to enhance its clarity as follows:

43. Where, for any good and sufficient reason (such as loss of or damage to the certificate in transit or correction of details), a replacement certificate is issued by the certifying officer, it must be clearly marked “REPLACEMENT” or “IN LIEU OF,” before being issued. A replacement certificate should reference the number of the original certificate that it supersedes and the date the original was signed, and the consignment details should be the same as the original. Where possible, the original certificate should be returned to the issuing authority.

### **NEW ZEALAND**

The New Zealand Government would like to make the following comments:

#### ***General Comment***

New Zealand supports the revision of the *Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates* (CAC/GL 38-2001) and has welcomed the opportunity to participate in the working group that undertook this work.

We believe that work on the revised guidelines as set out in the appendix to CX/FICS 06/15/3 has made good progress and will be ready to advance in the Codex step process once the following specific issues have been addressed.

#### ***Specific Comment***

##### ***‘Certificate’ and ‘Official Certificate’***

New Zealand suggests that the use of the terms ‘official certificates’ and ‘certificates’ in the text needs some consideration. Although both these terms are defined we believe that the flow, and in some cases the clarity of the document, could be improved if a commonsense approach rather than a strictly definitional approach is adopted throughout the draft guideline.

We make this suggestion to avoid the need to use the full term ‘official certificate’ throughout the text where in many instances it will be clear that while the term ‘certificate’ is used it is intended that this be read as ‘official certificate’. Where there is any possibility of doubt or for emphasis we are suggesting that the full term ‘official certificate’ be used.

#### ***Section 1 – Preamble***

##### ***Para 2***

Use term ‘official certificate’ in the first line. The amended sentence would read:

“These guidelines are not intended to encourage or mandate the use of official certificates for food presented ....”

##### ***Para 3***

Use term ‘official certificate’ in the first line. The amended sentence would read:

“These guidelines recognize that while official certificates may help importing ...”

#### ***Section 2 – Scope and Objectives***

##### ***Para 4***

Delete ‘standards’ in the last line its use places a potential restriction on the use of these guidelines that New Zealand does not believe is intended or necessary. The amended sentence would read:

“...importing country requirements relating to food safety standards, and/or ensuring fair practices in the food trade.”

**Para 6**

Use term ‘official certificate’ in the first line. The amended sentence would read:

“These guidelines are equally applicable to the production and issuance of official certificates regardless of their mode ...”

**Para 7**

Use term ‘official certificate’ in the second sentence. The amended sentence would read:

“However, it is recognised that, in practice, a single official certificate may contain information ...”

**Section 4 – Principles**

**Para 8 – Principle E**

Delete ‘Official’ at beginning of principle E – it is the only principle that uses the full term. Further the introduction to the paragraph clearly state that the principles apply to ‘official certificates’ so it is not necessary to repeat this in each principle.

**Section 5 – Use of certificates**

**Title**

Insert the term ‘official’ – this provides emphasis and clarity, and also allows the word certificate to be used in the text of the section without causing any ambiguity.

**Para 9**

Delete this paragraph it is repeated almost word for word in paragraph 10.

**Para 10**

Delete ‘official’ at the beginning of the paragraph – it is not necessary given the change to the title of the section.

Combine the third bullet into the second bullet. New Zealand does not believe that the third bullet is not a separate point but rather it is an example of how an importing country may have chosen to address one element of ensuring fair trade practices.

**Section 6 – Alternatives to use of Official Certificates**

**Para 13**

To ensure consistent use of language and terminology New Zealand suggests that this sentence be amended to read:

‘Alternative arrangements that provide equivalent assurances with respect to food safety or the prevention of unfair trade practices ~~economic fraud or deception~~ should be considered.’

**Para 16**

New Zealand remains somewhat concerned about the concepts that this paragraph is introducing. We believe that it potentially asked for certification of future events which we do not support and that contradicts paragraph 30 later in the document. We suggest that the paragraph be deleted.

**Section 7 – Extent of information, transparency and non-discrimination**

**Para 17**

Delete this paragraph it is repeated almost word for word in paragraph 19.

**Section 8 – Design of certificates**

**Title**

Insert the term ‘official’ – this provides emphasis and clarity.

**Para 25**

Use the term ‘official certificates’ in the first sentence. The amended paragraph opening would read:

‘To the extent practicable, a standard format should be employed for official certificates. Certificates should:’

### ***Section 9 – Issuance of certificates***

#### ***Title***

Insert the term ‘official’ – this provides emphasis and clarity.

#### ***Para 28 – second bullet***

New Zealand is unclear as to what this bullet is intended to achieve. It should either be rewritten to clearly state its intent or should be deleted.

#### ***Para 34***

New Zealand suggests that the term ‘attestations’ is more appropriate to use in the paragraph rather than certificates. The amended paragraph would read:

“In case certificates attestations are required from different bodies .... An examples of such a cases would be ~~certification~~ attestations of animal health status and public health matters on the same certificate.

#### ***Para 50***

To ensure easy translation from English, we suggest that the phrase ‘in violation of’ be replace with ‘non-compliant with’. The amended sentence would read:

“The product relating to fraudulent certificates should be considered to be ~~in violation of~~ non-compliant with the importing country’s requirements ...”

## **UNITED STATES**

### **General Comments**

The United States extends its thanks and appreciation to the Working Group for their significant effort in revising the document.

We note that the working group agreed to make several significant modifications to the document including the following:

- Focusing the Guidelines on the issuance of certificates and not on the process of certification;
- Including both food safety and fair practices in food trade as appropriate reasons for the issuance of export certificates.
- Incorporating provisions for providing assurances through means other than consignment-by consignment certificates, including the use of export lists, recognizing that this approach is becoming accepted by countries to accomplish the same objectives as export certificates.
- Recognizing the increasing use and importance of electronic certificates and better accommodating this area.
- Recognizing the importance of the problem of fraudulent certificates and adding a section on this subject to the Guidelines.

The United States agrees with these additions and modifications to the document.

We also note that during the Working Group session, the distinction between fraudulent and invalid certificates was raised as an issue. The Working Group dealt with the issue of fraudulent certificates in the new draft but did not have time to address invalid certificates. For this reason, we are suggesting a new section possibly at the very end of the document on this subject. This section is contained in our specific comments.

The United States supports advancement of the document in the Codex Step Procedure.

## **Specific Comments**

### Section 3- Definitions

Definition for Consignment: The U.S. supports the definition for consignment and recommends removal of the square brackets.

### Section 5-Use of Certificates

Paragraph 9. The provisions of paragraph 9 are included in paragraph 10. We recommend the deletion of paragraph 9.

### Section 7-Extent of Information, Transparency and Non-Discrimination

Paragraph 21. This paragraph is silent on the issue of whether trade samples are exempt from country requirements, which frequently is the case. For clarification, we suggest inclusion of the following sentence after the first sentence. "Trade samples are frequently exempt from the importing country's requirements".

### Section 8-Design of Certificates

Paragraph 25, bullet 2. Security generally, in addition to fraud, is a criterion with respect to the design of certificates. We suggest the following rewording of the second bullet to better capture this thought: "Be designed so as to ensure security and minimize the potential for fraud (for example, use of a unique identification number, use of watermark paper or other security measures for paper certificates, or use of secure lines and systems for electronic systems)."

Paragraph 25, bullet 5. Change "relates" to "relate".

### Section 9-Issuance of Certificates (Responsibility of Certifying Officers, Security and Prevention of Fraud).

Paragraph 28, bullet 2. Change the semi-colon after "authority" to a comma.

### New Section and Paragraph.

#### **"Invalid Certificates**

Despite efforts to prevent errors, official certificates may inadvertently contain incorrect information or attestations. Upon discovery of such errors, export country certification bodies or the importing country authority (or body performing the inspection on behalf of the importing country) should notify one another of the discovery. In such cases, the certifying body should supply a replacement certificate as described in paragraph 43 or revoke the certificates as described in paragraph 45, as appropriate."

## **WORLD ORGANISATION FOR ANIMAL HEALTH (OIE)**

The World Organisation for Animal Health (OIE) would like to thank the *Codex Alimentarius* Commission (CAC) and the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) for the opportunity to contribute as an observer Organisation to its standards development process.

To better address its Member Countries' needs, the OIE is currently reviewing its standards on certification with a view to updating them. The OIE will continue to coordinate its work with that of the CAC. As we have discussed previously, it would be desirable to produce combined certificates that address the continuum from farm to plate. This may not always be feasible. Nonetheless, harmonisation and avoidance of contradictory standards remains an important goal for Member Countries of Codex and OIE.

The OIE Terrestrial and Aquatic Animal Health Codes provide the OIE standards for terrestrial and aquatic animals. They include several appendices on certificates for international trade, and related procedures, which address animal health aspects of international trade in animals and their products.

The OIE supports the "Proposed Draft Revision of the Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates (CAC/GL 38-2001)" as presented in the Attachment 1 of document CX/FICS 06/15/3 providing that the following issues are taken into consideration by the Committee:

1. The OIE is concerned by the increasing administrative burdens that trading partners have to undertake; these are especially relevant for developing countries. Therefore an effort has to be made to reduce redundant or duplicative certificates. The OIE considers that principle G (see **paragraph 8**) addresses this issue and we therefore support it.
2. We would like to again emphasise the need for the CAC and the OIE to work together in order to ensure continuous and seamless safeguards for the food production chain. We are pleased to see the reference to the "three sisters" in **paragraph 33**.
3. We would like to take this opportunity to explain how the OIE addresses the 'origin of animals and animal products' issue in its official certificates. The OIE model certificates are presented in part 4 of the OIE Terrestrial Animal Health Code ([http://www.oie.int/eng/normes/mcode/en\\_sommaire.htm](http://www.oie.int/eng/normes/mcode/en_sommaire.htm)). The OIE model certificates for live animals recommend the provision of two items of information on origin, i.e. the name and address of the exporter and the place of origin of the animals. The OIE model certificate for meat of domestic animals recommends the provision of information on the origin of the meat by identifying the abattoirs and the cutting up establishments where the meat was produced. These points, in conjunction with the information on sanitary requirements recommended in the certificates, address the control of the spread of diseases, be they of animals or man (i.e. zoonoses).

We consider that information on the origin of animal products is particularly important in case of unexpected developments, such as outbreaks of new or emerging diseases that can affect animals and humans, in that this information enables the origin of the product and possible exposure of animals to disease agents to be investigated promptly and appropriate action taken. This could not be done as readily if the only information provided on the origin of the meat is the name and address of the storage premises and/or exporter.

If it is intended to establish a basis for certification that could cover the production chain continuum (including factors relating to live animals), we consider that the place of origin (i.e. abattoir and, if appropriate, cutting facility) of the products should be identified. If animals slaughtered in the exporting country originate from another country, the name of the animals' country of origin should be mentioned on the certificate. We propose to amend **paragraph 26** as follows:

*"26. The information related to the product being certified should be clearly documented on the certificate and should include as a minimum:*

- *nature of the food;*
- *name of product;*

- *quantity, in the appropriate units;*
  - *a description of the commodity and consignment to which the certificate uniquely relates, e.g., lot identifier, security seal number(s) or date coding;*
  - *identity and, as appropriate, the name and address of the processor of the food and storage establishments, ~~and~~ their approval number and, when relevant, the name of the country of origin of the animals;*
  - *name and contact details of the exporter or consignor;*
  - *name and contact details of the importer or consignee;*
  - *country of dispatch, and region in the case of country regionalization; and,*
  - *country of destination, and region in the case of country regionalization.”*
4. The OIE is concerned by the risk of epizootic events related to animal diseases, including zoonoses (e.g. avian influenza, bovine spongiform encephalopathy). It is important that certification related to these events be performed in manner that gives the importing country all the necessary guarantees to achieve safe trade. To address this issue, the OIE proposes to amend paragraph 29 as follows:

*“29. If the competent authority of the exporting country has legislative authority to utilize third party certification bodies and has authorized a third party body to issue certificates on its behalf, the competent authority should demonstrate to the importing country ~~must ensure~~ that there is adequate oversight of the third party, including auditing arrangements.”*