

codex alimentarius commission



FOOD AND AGRICULTURE
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Agenda Item 4

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON GENERAL PRINCIPLES

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PROPOSED DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOODS Government Comments at Step 3

(Canada, Colombia, Cuba, Malaysia, Moldova, Thailand, Turkey, United States, EC, ENCA, IBFAN)

CANADA

Background:

The *Code of Ethics for International Trade in Foods* (the Code) was first adopted by the Codex Alimentarius Commission at its 13th Session in 1979 and subsequently adopted as a revised text at its 16th Session in 1985. The objective of the Code is to prevent the trade internationally of unsafe and poor quality food, thus protecting consumers' health and promoting fair trade practice through encouraging food traders to adopt voluntary ethical practices.

The Code was developed to address the situation where many countries - particularly developing countries - did not yet have adequate food control infrastructures to protect consumers against health hazards in food and/or against fraud. Given the further globalization of trade in food, the increased priority of food safety in all Codex countries and developments in the international regulatory framework, Canada regards discussions aimed at revising the Code to be timely and useful.

While the continued regulatory and capacity challenges facing developing countries are a particular priority, a well-focused and operationally effective Code is important for all Codex Members in their capacities as both exporters and importers. This is in keeping with the Strategic Framework (2003-2007) of the Codex Alimentarius Commission that seeks a world afforded the highest attainable levels of consumer protection, including food safety and quality.

Canada's Position:

Canada strongly supports the Code and recognizes its importance for all Codex Members. Canada believes that the CCGP discussions should focus on achieving a clear consensus on the Code's intended objectives, scope, purpose and prospects for implementation in order to best advance the text. In other words, "*what kind of Code do Codex Members want?*"

It should be recalled that much has happened within Codex since the 1985 revision. A number of texts relevant to this Code have been developed by the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) and adopted by the Commission, for example:

"*Principles for Food Import and Export Inspection and Certification*" (adopted in 1995);

"*Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*" (adopted 1997);

“*Guidelines for the Exchange of Information in Food Control Emergency Situations*” (adopted in 1995 and currently under review);

“*Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certifications Systems*” (adopted in 1999); and

“*Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems*” (adopted in 1997).

In addition, the World Trade Organization’s *Agreement on the Application of Sanitary and Phytosanitary Measures* and the *Agreement on Technical Barriers to Trade*, both of which are relevant to the work of Codex in this area, came into effect in 1995. The recognition and status that Codex standards, guidelines and other recommendations are afforded by these agreements must be kept in mind in the revision of the Code. Moreover, it must be recognized that all Codex Member countries are both importers and exporters of food. Care must be taken, when addressing the challenges faced by Member countries in regulating imports, to avoid placing burdensome provisions on these countries in regulating exports.

In recent years, the Secretariat has done commendable work to prepare drafts of a revised Code, reflecting the comments made by Member Governments at previous CCGP Sessions. Some significant improvements to the Code have already been incorporated into the latest draft (CX/GP 02/5) such as the explicit inclusion of food aid within the scope of the Code and the use of a generic reference to Codex standards, guidelines and recommendations. While there have been brief discussions of a general nature on the Code at the last two meetings of the CCGP, there has not been a focused, extensive discussion on the fundamental purpose and features of a revised Code.

The Secretariat has highlighted a number of fundamental questions of principle in Annex 1 of

CX/GP 02/5. For example, we note that the current Code is directed to “all those engaged in international trade in food” which, in Canada’s opinion, goes beyond Codex’s practice of developing standards, guidelines and recommendations intended for acceptance and implementation by Member Governments. In addition, the current Code contains many ambiguous provisions, a situation which is not helpful in an international instrument of such importance. For these reasons, it is Canada’s view that a full and focused discussion will be necessary, on these and other such questions, in order to develop the consensus necessary to advance the draft revised Code.

To this end, Canada welcomes a discussion on the following issues:

- While Canada sees merit in an “inspirational” Code, Canada’s preference is for a revised Code that would be directed at Governments, be predictable in its application, and be adopted and implemented by all Codex Member Governments.
- Consistent with the mandate and practice of Codex, this Code should be aimed at Governments and any recommendations to “traders” and “those engaged in international trade” should be done through Governments.
- Canada’s preference is for a revised Code that does not duplicate the provisions of other relevant Codex documents but instead complements and builds upon these documents.
- Given the scope and objective of the Code, it is unlikely that it would fall under Paragraph 3(a) of Annex A of the WTO *SPS Agreement*. However, the revised Code will likely have status internationally under Article 2.5 of the WTO *TBT Agreement* and, therefore, Canada believes that its scope and purpose must be clear.
- Canada believes the revised Code should continue to address the current and future regulatory challenges faced by developing country Governments. In this regard, Canada would welcome, within this fora, the views and experiences from such Members on whether these challenges have changed since 1985 and how the revised Code could best reflect these changes. Canada would prefer that the Code clearly recognizes, and its provisions reflect, the fact that Member countries are both importers and exporters. In this regard, the Code should not contain unrealistic provisions for Governments of exporting countries.

- Given the importance of the Code, Canada would want it to precisely describe the circumstances under which Member Governments would not be expected to comply with some or all of the provisions of the Code (i.e., exceptional circumstances).

COLOMBIA

Article 2 Scope and Article 5: Spanish version only

Article 6 Application

6.1.) According to our analysis, it seems difficult to comply with this section as in the majority of cases it is not possible to adjust food exports to "food legislation, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the exporting and importing country" expecting that these two sets of regulations coincide. In addition in our opinion this paragraph is not consistent with the new underlined paragraph:

"A country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country."

Since our objective is to elaborate a code of ethics for international food trade, we propose that commercial practice should be consistent with the principles established and that the following text should be included:

"If an exporting country recognizes that the standards of the importing country are less stringent than its own standards and those of Codex Alimentarius, insofar as they concern consumer health protection, the exporting country should go further and undertake to export the food concerned in compliance with the minimum requirements defined in Codex standards, in order to contribute to the global trade of safe food.

In another situation, when food legislation in the importing as well as the exporting country is less stringent than Codex standards, as related to consumer health protection, food should comply with the regulations that approximate more closely Codex Alimentarius standards."

In view of the above, instead of questioning the legal status of standards in the countries concerned, they are invited to revise regulations and to align them with internationally accepted standards, which afford a better protection against foodborne diseases of any type that represent a hazard to the health of their population.

6.3 c) For the new underlined paragraph we propose the following amendments:

Food that has been exported and subsequently rejected should only be offered anew for export to another country if the precise reasons for the rejection are disclosed to the potential importer before re-export.

COLOMBIA (Spanish version)

ARTÍCULO 2- ÁMBITO DE APLICACIÓN

2.1 La versión en español no recoge el doble ámbito de aplicación que señala la versión inglesa, cuando dice que el código se aplica también a todos los alimentos introducidos en el comercio internacional y aplica mutatis mutandis a las transacciones relacionadas con ayuda alimentaria. En consecuencia se solicita que se complete el numeral 2.1 con el doble ámbito de aplicación que se prevé para el código.

ARTÍCULO 5- REQUISITOS ESPECÍFICOS

5.1 En el último renglón, la última palabra "tecnologías" debe ser cambiada por "biotecnología"

ARTÍCULO 6- APLICACIÓN

6.1 b) Según nuestro análisis sobre este literal, parece difícil asegurar su cumplimiento puesto que ajustar la exportación de alimentos a "la legislación alimentaria, reglamentos, normas, códigos de prácticas y otros procedimientos jurídicos y administrativos vigentes en país exportador y en el importador;..."esperando que las dos legislaciones coincidan, lo hace en la mayoría de los casos no cumplible. Adicionalmente, en nuestra opinión este literal no podría coexistir con el párrafo nuevo subrayado que dice:

"Un país puede exportar alimentos que no se ajusten a sus reglamentaciones nacionales cuando esos alimentos sean conformes a las reglamentaciones del país importador y se exporten de conformidad con los requisitos del país importador".

Dado que el objetivo que nos ocupa es el de elaborar un código de ética para el comercio internacional de alimentos, proponemos que la práctica comercial de alimentos sea coherente con los principios establecidos y que de ella haga parte lo siguiente:

Sí un país exportador de alimentos reconoce que la normatividad del país importador tiene requisitos que están por debajo de su propia normatividad e inclusive de las normas del Codex Alimentarius, en cuanto esos requisitos se relacionen con la protección de la salud de los consumidores, el país exportador en procura de contribuir al comercio global de alimentos inocuos, debería ir un poco más adelante y comprometerse a enviar esos mismos alimentos, pero cumpliendo los mínimos establecidos en las normas del Codex.

En otra situación, cuando las legislaciones alimentarias tanto del país importador como del país exportador sean más laxas que las normas del Codex, en cuanto se relacionen con la protección de la salud de los consumidores, se debería cumplir con la que más se aproxime a las normas del Codex Alimentarius.

Con los anteriores procedimientos, antes que desconocer la legalidad de la normatividad de los países, se les está invitando a revisar su legislación y a situarla a la altura de la aceptada internacionalmente, normatividad que les puede brindar una mayor protección contra agentes de cualquier índole que entrañen riesgo para la salud de su población.

6.3 c) Para el párrafo nuevo subrayado proponemos los siguientes ajustes escritos en negrilla y subrayado. "Los alimentos que se hayan exportado y hayan sido objeto de un rechazo, posteriormente sólo se ofrecerán para ser exportados de nuevo a otro país, si antes de la reexportación el mismo país exportador, informa al importador eventual de los motivos precisos del rechazo.

CUBA (English version)

In some of the articles the term "should" is used with reference to specific action to be taken by governments. However since this set of ethical principles would be voluntarily endorsed by the majority of countries, as a result of their application governments have to take a position and to proceed according to the principles adopted throughout the Code.

We suggest to reflect further on the mandatory aspects of the text.

Article 1 - Objectives

Irrespective of Article 7 establishing the responsibility of governments in the application of the Code, its provisions are intended to regulate the behaviour of all persons involved in food trade. From the legal point of view the status of legal as well as physical persons should be clarified in some section or paragraph of the document, to ensure that the private sector is not excluded, especially in view of the importance of electronic trade and the resulting increase of private sector participation in international transactions.

Article 6.1 b) We propose to amend the wording as follows:

"food legislation, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the exporting and/or importing country"

Justification: in the current version it may be understood that compliance with the regulations of both countries is mandatory.

Article 6.1 Last paragraph We propose to complete the text as follows:

"A country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country and/or the standards and other texts elaborated by the Codex Alimentarius Commission"

Justification: If an ethical behaviour is required from the exporting country, the importing country should be required to comply at least with the principles of Codex Alimentarius in order to protect the health of consumers.

Article 6.3 Last paragraph We propose to use the term "importing country" instead of "importer", if general terms are to be retained in the document. If the use of specific terms is allowed, it would be preferable to indicate that in case of reexport, the authorities of the importing country should be informed.

MALAYSIA

1. (i) Paragraph (b)

We propose to amend this paragraph to read as follows :

“The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures taking advantage of the work of Codex Alimentarius Commission and where necessary and appropriate, of other international organizations.

This will give preference to the work of Codex Alimentarius Commission which is the international reference point under WTO as regards to food safety whilst recognising the work of other international organizations.

(ii) Paragraph (c)

We propose to amend the words *“consumer protection”* to *“consumer health protection”* for explicit purposes.

ARTICLE 2 - SCOPE

2. We propose that Article 2.2. be amended to be consistent with Article 1 as follows:

his code establishes standards of ethical conduct to be applied by all those engaged in international trade in food or responsible for regulating it.”

ARTICLE 3 – DEFINITION AND INTEPRETATION

3. For explicit purposes, we propose to add the words *“of this Code”* at the end of the sentence of Article 3.2.

ARTICLE 4 – GENERAL PRINCIPLES

4. (i) For clarity purposes, we propose that Article 4.1 be amended to read as follows :

*“International trade in food and food aid transactions should be conducted on the principles that all consumers are entitled to safe, sound and wholesome food and to protection from unfair trade practices and should take into account the *Codex Principles for Food Import and Export Certification and Inspection.*”*

(ii) We propose a new Article 4.3 on the export of food which requires further processing in the importing country as follows:

“Raw or semi-processed foods may be exported from or imported into a country so that it can be further processed, reprocessed or reconditioned for the purpose of human consumption.”

(iii) Paragraph (d) of Article 4.2 is not clear; hence we propose this paragraph be amended as follows:

“is labelled or presented in a manner that is false, misleading or deceptive or is presented in a manner that may adversely affect the safety of the food; or”

ARTICLE 6 - IMPLEMENTATION.

5. (i) We propose that Article 6.1 (c) be amended to read :

“to the provisions on food safety contained in bilateral or multilateral agreements signed by the exporting and the importing country; or”

(ii) We propose to replace Article 6.1 (d) with the following :

“to such food legislation, regulations, standards, codes of practice and other legal and administrative procedures related to food safety as may be in force in the exporting country if these are more stringent than those of the importing country”.

Consequently, we propose deletion of the sentence “A country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country and ”

Hence, Article 6.1 will read as follows :

“6.1 Food that is exported should conform :

- (a) to the requirements of Codex Alimentarius Commission’s standards and related texts; or
 - (b) to such food legislation, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the exporting and importing country; when these are more stringent than the requirements in relevant Codex standards and related texts, they should be notified to the exporting country by the importing country and reference should be made to the relevant provisions of the SPS and TBT Agreements; or
 - (c) to the provisions on food safety contained in bilateral or multilateral agreements signed by the exporting country and importing country ; and
 - (d) to such food legislation, regulations, standards, codes of practice and other legal and administrative procedures related to food safety as may be in force in the exporting country if these are more stringent than those of the importing country.”
- (iii) In Article 6.3, we note that paragraphs (a) and (b) are applicable to importing country whilst paragraph (c) relating to the subject of unfair trade practices is in the interest of the exporting country. To clarify this situation, we propose to amend the words “ Where, in an importing country, a food product:” to “Where a food product has been rejected due to the following reasons:”

We are of the view that the paragraph *“the authorities of the importing country should, in accordance with concerning the facts of the matter made to the importing country”* which refers to the obligations of the importing and exporting countries on rejection of imported foods is not clear; also the details of rejection should be provided by the importing country not only on serious cases involving human health and fraud but based on all the three reasons as in (a), (b) and (c). In this light, we propose that the paragraph be amended to read as follows:

- the authorities of the importing country should, in accordance with *the Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*, inform the competent authorities of the exporting country of details of rejection including reasons for rejection; and
- the competent authorities of the exporting country should take appropriate actions in accordance with its legal and administrative procedures, and provide a statement concerning such actions to the importing country upon request.”

Hence, Article 6.3 will read as follows :

“Where a food product has been rejected due to the following reasons :

- (a) is found not meeting health and safety requirements;
 - (b) claiming to be in compliance with a standard, code of practice or other generally accepted certification system is found not to be in compliance, whether in respect of the label accompanying the product or otherwise, or
 - (c) is the subject of unfair trade practices, or otherwise not conforming to the provisions of the code,
- the authorities of the importing country should, in accordance with *the Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*, inform the

competent authorities of the exporting country of details of rejection including reasons for rejection; and

- the competent authorities of the exporting country should take appropriate actions in accordance with its legal and administrative procedures, and provide a statement concerning such actions to the importing country upon request.

Food that has been exported and subsequently rejected should only be offered anew for import into another country if the precise reasons for the rejection are disclosed to the potential importer before re-export.

ARTICLE 7 – RESPONSIBILITIES FOR IMPLEMENTATION

6. We propose that the words “*all others concerned with the international trade in food*” be amended to “*all those engaged in international trade in food*” to be consistent with Article 1.

MOLDOVA

The Republic of Moldova agrees with the Proposed Draft Revised Code of Ethics for International trade in Foods at Step 3 and has no comments to it.

THAILAND

Article 5 Specific Requirements

5.1 We support the proposal to remove the brackets from the phrase “[through harmonization with]” and delete the phrase “[taking into account]” in order to emphasize the need for harmonization of food standards with Codex standards.

Moreover, it is essential that the requirements in this code be consistent with the requirements of WTO Agreements on SPS and TBT in which the concept on harmonization of national standards and regulations with international standard is encouraged.

5.3 As article 5.3 (b) already covers particular issue addressed in article 5.3 (a), section 5.3 (a), therefore, should be deleted. Notwithstanding, we also find it difficult to support article 5.3(b) due to the inconsistency between the content under article 5.3 (b) and the heading of this article of which the emphasis is placed on vulnerable groups and regions where malnutrition exists.

Article 6 Implementation

6.1 (b) We strongly support the inclusion of the text contained in the last paragraph of this article which reads as follows:

“A country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirement of the importing country and...”

We are of the opinion that the intent of this exception is not to take advantage of the importing country but it is necessary to provide flexibility for other quality requirements to meet customer requirements. Also, we consider that this exception reflects the real situation in international trade where some quality requirements/specifications or inspection criteria in different countries are sometimes found to be different.

In this connection, the words “exporting and” in the 2nd line under article 6.1(b) should also be deleted.

6.3 The text as written in the last two lines at the end of this article could cause serious problem in practice due to the inequality of the standards and regulations in different countries. The requirements of the standards or regulations in some importing countries, based on their appropriate level of protection, may be more restrictive than the requirements in exporting countries or even more restrictive than Codex standards. In this situation, it does not mean that the products that have been rejected from these importing countries are not safe for other

countries. However, it will be burdensome for the exporting countries if they are required to provide the information on the reasons for previous rejection to the potential importer before re-export.

Therefore, we propose that the last two lines should be deleted.

Article 7 Responsibilities for Implementation

7.1(b) The text “more especially governments of exporting countries who should” should be modified to confine the scope of article 7.1(b) to food safety only. Consequently, it should be clear that the articles referred to in (i)-(iii) are also limited to food safety. These modifications would make this code reflect the current practices in international food trade.

In addition, to be consistent with our proposal in article 6.1(b), the text “and prevent the export of food that does not meet their national standards” should be deleted.

TURKEY

- 1) For the statement “all those in international trade in food” in article 1 and 7 can be retained in the text.
- 2) The Code should not apply to food aid transactions, for special circumstances the appropriate competent authorities in recipient and donor countries responsible for food control may decide to establish mutually agreed criteria (Article 4 and 8).
- 3) The national legislation should “take into account” Codex standards (Article 5).
- 4) For section 5.11 only referring “Guidelines on Nutrition Labelling, The Guidelines on Use of Nutrition Claims” and relevant standards on foods for infants and children is adequate, there is no need for further statement given in square brackets.
- 5) A country may export food that does not comply its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country. This can be accepted in the case that the product meet health and safety requirements and also for the products like genetically modified foods, the exporting country should inform all importing countries especially those haven’t prepared regulations on that subject or those couldn’t make effective control of that kind of products.
- 6) We support strengthening the provisions concerning developing countries in the light of the provisions of the SPS Agreement. In the preparation and application of food regulations, countries should take into account the special needs and situation of developing countries, in conformity with the provisions of the SPS and TBT Agreements. Risk assessment should be based on global data, including that from developing countries as some of them are main producers of some agricultural products.

UNITED STATES

GENERAL COMMENTS

- The United States supports the development of a revised Codex Code of Ethics for International Trade in Food. An ethical code of conduct builds upon a foundation of national and international legal principles by permitting a philosophical framework for the responsible conduct of international trade in food.
- The question is raised in the Secretariat’s Paper as to whether this Code should apply to all engaged in international trade or whether the Code should be directed only to governments. As a Codex text, the Code is directed to national governments. The United States believes that the final sentence of the Preamble should be changed by inserting the phrase, “by member governments” after the word “implementation”, to emphasize that this is a document directed to national governments. However, the United States believes that all parties engaged in international trade in food have responsibilities for ethical conduct of trade. The U.S. will provide suggested language in Article 7.2 to indicate that governments should work with all parties to implement the Code of Ethics.
- The document is of an advisory, rather than a mandatory, nature.

SPECIFIC COMMENTS

Article 1 - Objective

The United States believes that the “objective” of the Code can be further clarified with the addition of a new Section 1.2

1.2 The code is designed for use within the context of national legislation as a basis whereby governments, those engaged in trade, and citizens may judge whether their proposed actions and the actions of others constitute acceptable practice.

Article 2-Scope

In Section 2.2, the United States believes that the Code should be “observed” rather than applied. Therefore, the U.S. would rewrite the section to read:

2.2 The code establishes standards of ethical conduct to be observed by all those concerned with international trade in food.

Article 3 – Definition and Interpretation

In Section 3.2, for consistency with the voluntary nature of Codes texts, the United States believes that “shall” should be replaced with “should”, to read:

3.2 ... Their interpretation and application should be consistent with the context of all provisions.

Article 4- General Principles

In Section 4.1, the United States believes that the word “based” is better than “conducted” and would rewrite the section to read:

4.1 International trade in food and food aid transactions should be based on the principles of consumer protection, food safety and fair trade practices and take into account the Codex Principles for Food Import and Export Certification and Inspection.

In Section 4.2 (b), for clarity, insert the word “any” after “in part of”, to read:

4.2 (b) consists in whole or in part of any substance which is unfit for human consumption or contains foreign matter to an extent which makes it unfit for human consumption; or

In Section 4.2 (e), change “and” to “or”, to read:

4.2 (e) is prepared, packaged, stored, transported ~~and~~ or marketed under unsanitary conditions.

Article 5- Specific Requirements

The United States believes that it is sufficient to reference Codex texts in general, without mention of specific texts. The U.S. considers that CCNFSDU texts are sufficient for foods for infants, children, and other vulnerable groups and that section 5.2 should be deleted. Similarly the U.S. considers CCFL text sufficient guidance on labeling claims and believes that section 5.3 (a) and (b) should be deleted. The United States strongly supports use of the term “taking into account” and does not support use of “through harmonization”. Further, Codex texts do not ensure protection of consumer health and fair practices in trade, but application of Codex texts help ensure health protection and fair trade practices. Therefore, the U.S. would rewrite this section to read:

Article 5 – Codex Texts

5 Appropriate national food standards, based on risk analysis where applicable, should be established and enforced taking into account that the protection of consumers’ health and fair trade practices can be facilitated by ~~ensured [through harmonization with] [taking into account]~~ the standards and related texts established by the Codex Alimentarius.

Article 6- Implementation

The United States believes that this section should be significantly rewritten to recognize that in many cases

food exported does not meet the requirements of the exporting country but must always meet the requirements of the importing country. In many cases the requirements are different because of differing conditions or needs within the importing country. The reference to Codex texts is already covered in Article 5 and should be deleted here. The ultimate goal should be for governments to have national standards that are consistent with Codex texts.

The U.S. believes that the section on the SPS and TBT agreements in section 6.1(b) is confusing and unnecessary and should be replaced with a statement that “Countries are reminded of their notification obligations, consistent with the relevant notification provisions of the SPS and TBT Agreements” after 6.1. The reference to the expanded terms of section 5 should be deleted in accordance with the U.S. comments on that section. The final sentence in 6.3 is unnecessary given that reporting is fully covered in the first part of 6.3. Therefore, The U.S. would rewrite this section as follows:

6.1 Food that is exported should conform:

~~(a) to the requirements of Codex Alimentarius Commission’s standards and related texts; or~~

~~(b)(a) to such food legislation, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the exporting and importing country; when these are more stringent than the requirements in relevant Codex standards and related texts, they should be notified to the exporting country by the importing country and reference should be made to the relevant provisions of the SPS and TBT Agreements; or~~

~~(c)(b) to the provisions contained in bilateral or multilateral agreements signed by the exporting country and the importing country; or~~

~~(d)(c) in the absence of such provisions to such standards and requirements as may be agreed upon, taking into account the provisions of Codex Standards and related texts wherever possible.~~

6.2 A country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country and.

6.3 Countries are reminded of their notification obligations, consistent with the relevant notification provisions of the SPS and TBT Agreements.

6.4 ~~6.2~~ Where the General Principles stated in Article 4 above, ~~as expanded in specific terms in Article 5,~~ are not covered by appropriate food legislation, regulations, standards, codes of practice and other legal and administrative procedures in the importing country, food that is exported should conform to the General Principles stated in Article 4, taking into account such standards and related texts elaborated by the Codex Alimentarius Commission as applicable to the food or practice concerned.

6.5 ~~6.3~~ Where, in an importing country, a food product:

(a) is found not meeting health and safety requirements , or

(b) claiming to be in compliance with a standard, code of practice or other generally accepted certification system is found not to be in compliance, whether in respect of the label accompanying the product or otherwise, or

(c) is the subject of unfair trade practices, or otherwise not conforming to the provisions of this code,

the authorities of the importing country should, in accordance with *the Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*, inform the competent authorities in the exporting country of all the relevant facts of serious cases involving considerations of human health or fraudulent practices and, in particular, the details of the origin of the product in question, and appropriate action should be taken by the exporting country in accordance with its legal and administrative procedures, and a statement concerning the facts of the matter made to the importing country.

Food that has been exported and subsequently rejected should only be offered anew for import into another country if the precise reasons for the rejection are disclosed to the potential importer before re-export.

Article 7- Responsibilities for Implementation

Section 7.1 (b)(i). The United States supports deletion of the phrase, “and prevent the export of food that does not meet their national standards”. The underlined phrase is inconsistent with the regulatory provisions of many countries. Therefore, the U.S. would rewrite this section as follows:

7.1 (b)(i) employ as appropriate and practicable, legal or administrative controls aimed at preventing the exportation of shipments of food which does not comply with the provisions of Articles 6.1 or 6.2 ~~and prevent the export of food that does not meet their national standards~~

The United States recommends that Section 7.1(b)(ii) be deleted. The United States believes that the reference to the Codex *Guidelines for the Exchange of Information in Food Emergency Control Situations* in Article 6 is sufficient.

The United States recommends that section 7.1(c) be rewritten to indicate that Codex texts are intended for national governments, but that all parties engaged in international trade in foods have responsibilities to follow ethical practices in such trade. Accordingly, the U.S. would renumber this section as 7.1(b)(iii) and rewritten as follows:

7.1(b)(iii) work with the regulated industry, including all food manufacturers, distributors, transporters and all others concerned with the international trade in food - particularly in respect of Article 6.1 (c) – to ensure that the General Principles in Article 4 are taken into account,

For consistency the word “apply” in 7.2 should be replaced with “take into account” to read:

7.2 In order to facilitate the implementation of the Code, countries should ~~apply~~ take into account the Codex Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems to the fullest extent possible.

The second section numbered 7.2 should be renumbered as 7.3

Article 9- Exchange of Information

The United States believes that the final sentence of this section should be deleted because reference to the Codex guidelines is sufficient

Article 11- Developing Countries

This Article should be renumbered as “10” and the Section numbered as “10”. In the first sentence, “situation” should be changed to “situations”. The language on “unnecessary obstacles” introduces new terms into the international context. In the third sentence change “be encouraged to” to “recognize their need to” as it is important that developing countries recognize their need to ensure the safety and quality of the food they produce. Therefore the U.S. would rewrite the article as follows:

ARTICLE ~~11~~ 10 DEVELOPING COUNTRIES

In the preparation and application of food regulations, countries should take into account the special needs and situations of developing countries, in conformity with the provisions of the SPS and TBT Agreements. While not lowering the level of consumer health protection, developed countries should recognize the limitations of developing countries to ensure that the food they produce, import and export meets international standards. Developing countries recognize their need to ~~should be encouraged to~~ ensure the safety and quality of the food they produce on the basis of international standards. Developed countries should facilitate programmes, including those of FAO and WHO, to enhance the capability of developing countries to produce, import and export safe and wholesome food.

CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD

(As Redrafted by the United States)

PREAMBLE

THE CODEX ALIMENTARIUS COMMISSION,

RECOGNIZING THAT:

- (a) Adequate, safe, and wholesome food is a vital element for the achievement of acceptable standards of living and that the right to a standard of living adequate for the health and wellbeing of individuals and their family is proclaimed in the Universal Declaration of Human Rights of the United Nations, the Rome Declaration of the World Food Summit;
- (b) Food is a vital and critical item of international trade and its quality is influenced primarily by prevailing commercial practices and such food legislation and food control practices as are in operation in particular countries;
- (c) Food purchases utilize a significant portion of the income of consumers, particularly low-income consumers, who often also represent the most vulnerable group and for whom ensuring of safe, sound and wholesome food and protection from unfair trade practices is critical;
- (d) There is ever present concern about food safety, unfair trade practices in quality, quantity and presentation of food, misleading claims, food losses and wastage and, generally about food quality and nutritional status everywhere;
- (e) Food legislation and food control infrastructures may not be sufficiently developed in many countries to enable adequate protection of their food exports and imports and to prevent the dumping of sub-standard and unsafe foods;
- (f) The World Trade Organization Agreements on trade, particularly the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and the Agreement on Technical Barriers to Trade (TBT) establish the rights and obligations of Members for measures that affect international trade directly and indirectly;
- (g) The International Code of Marketing of Breast-milk Substitutes and relevant resolutions of the World Health Assembly set forth principles for the protection and promotion of breastfeeding which is an important aspect of primary health care;
- (h) The World Food Summit encourages the assurance of adequate supplies of safe and nutritious food for all people, which is dependent upon the facilitation of trade and the use of appropriate food production and process controls exercised by both the food industry and governments;
- (i) Developing country Members may encounter special difficulties in complying with the food regulations of importing Members, and as a consequence in access to markets, and also in the formulation and application of food regulations in their own territories, and desiring to assist them in their endeavors in this regard;

AND CONSIDERING THAT:

- (a) The major objectives of the work of the Codex Alimentarius Commission are to protect the health of the consumers and ensure fair practices in international trade in food through the elaboration and harmonization of standards and related texts addressing food safety and quality, methods of analysis and sampling, inspection and certification systems;
- (b) The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures and, where necessary, taking advantage of the work of international organizations competent to advise and provide assistance in these areas and particularly of the standards and related texts of the Codex Alimentarius Commission;
- (c) A code of ethical conduct for international trade in food embodying the principles of consumer protection can be complementary to national food legislation and food control infrastructures and, at the same time facilitate effective international cooperation,
- (d) Due consideration should be given to the particular needs of developing countries, enabling them to produce and maintain a safe and wholesome food supply;

HEREBY DECIDES TO RECOMMEND THAT ALL THOSE ENGAGING IN THE INTERNATIONAL TRADE IN FOOD COMMIT THEMSELVES TO THE ETHICAL FRAMEWORK SET FORTH IN THIS CODE AND UNDERTAKE TO SUPPORT ITS IMPLEMENTATION BY MEMBER COUNTRIES IN THE LARGER INTEREST OF THE WORLD COMMUNITY

ARTICLE 1 - OBJECTIVE

- 1.1 The objective of this code is to establish standards of ethical conduct for all those engaged in international trade in food or responsible for regulating it and thereby to protect the health of the consumers and promote fair trade practices.
- 1.2 *The code is designed for use within the context of national legislation as a basis whereby governments, those engaged in trade, and citizens may judge whether their proposed actions and the actions of others constitute acceptable practice.*

ARTICLE 2 - SCOPE

- 2.1 This code applies to all food introduced into international trade and applies *mutatis mutandi* to concessional and food aid transactions.
- 2.2 This code establishes standards of ethical conduct to be *observed* by all those concerned with international trade in food.

ARTICLE 3 - DEFINITION AND INTERPRETATION

- 3.1 For the purposes of this code, "food" means any substance, whether processed, semi-processed or raw which is intended for human consumption and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.
- 3.2 The provisions of this Code are interrelated. Their interpretation and application *should* be consistent with the context of all provisions.

ARTICLE 4 - GENERAL PRINCIPLES

- 4.1 International trade in food and food aid transactions should be *based* on the principles of consumer protection, food safety and fair trade practices and take into account the Codex *Principles for Food Import and Export Certification and Inspection*
- 4.2 Subject to the provisions of Article 5 below, no food should be in international trade which:
 - (a) has in or upon it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health unless the food is subject to further processing so as to address those risks; where special processing or culinary practices or conditions are required to render the food harmless, the exporter should provide adequate information on such processing; or
 - (b) consists in whole or in part of substance which is unfit for human consumption or contains foreign matter to an extent which makes it unfit for human consumption; or
 - (c) is adulterated; or
 - (d) is labelled or presented in a manner that is false, misleading or deceptive or that may adversely affect the safety of the food; or
 - (e) is prepared, packaged, stored, transported *or* marketed under unsanitary conditions.

ARTICLE 5 – CODEX TEXTS

5. Appropriate national food standards, based on risk analysis where applicable, should be established and enforced taking into account that the protection of consumers' health and fair trade practices can be facilitated by taking into account the standards and related texts established by the Codex Alimentarius.

ARTICLE 6 - IMPLEMENTATION

- 6.1 Food that is exported should conform:
 - (a) to such food legislation, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the importing country, or
 - (b) to the provisions contained in bilateral or multilateral agreements signed by the exporting country and the importing country; or
 - (c) in the absence of such provisions, to such standards and requirements as may be agreed upon, taking into account the provisions of Codex Standards and related texts wherever possible.

- 6.2 A country may export food that does not comply with its national regulations if that food complies with the regulations of the importing country and is exported in accordance with the requirements of the importing country.
- 6.3 Countries are reminded of their notification obligations, consistent with the relevant notification provisions of the SPS and TBT Agreements.
- 6.4 Where the General Principles stated in Article 4 are not covered by appropriate food legislation, regulations, standards, codes of practice and other legal and administrative procedures in the importing country, food that is exported should conform to the General Principles stated in Article 4, taking into account such standards and related texts elaborated by the Codex Alimentarius Commission as applicable to the food or practice concerned.
- 6.5 Where, in an importing country, a food product:
- (a) is found not meeting health and safety requirements , or
 - (b) claiming to be in compliance with a standard, code of practice or other generally accepted certification system is found not to be in compliance, whether in respect of the label accompanying the product or otherwise, or
 - (c) is the subject of unfair trade practices, or otherwise not conforming to the provisions of this code,

the authorities of the importing country should, in accordance with *the Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*, inform the competent authorities in the exporting country of all the relevant facts of serious cases involving considerations of human health or fraudulent practices and, in particular, the details of the origin of the product in question, and appropriate action should be taken by the exporting country in accordance with its legal and administrative procedures, and a statement concerning the facts of the matter made to the importing country.

ARTICLE 7 - RESPONSIBILITIES FOR IMPLEMENTATION

- 7.1 The implementation of this code rests with:
- (a) governments of all countries, who should provide adequate food legislation and food control infrastructures, including certification and inspection systems and other legal or administrative procedures that also apply to re-exports of food as appropriate and necessary, and
 - (b) more especially governments of exporting countries who should:
 - (i) employ as appropriate and practicable, legal or administrative controls aimed at preventing the exportation of shipments of food which does not comply with the provisions of Articles 6.1 or 6.2;
 - (ii) make available to the importing country upon request appropriate certification, inspection or other procedures as appropriate with the manner of compensation for these services to be agreed upon between the governments.
 - (iii) work with the regulated industry, including all food manufacturers, distributors, transporters and all others concerned with the international trade in food - particularly in respect of Article 6.1 (c) – to ensure that the General Principles in Article 4 are taken into account,
 - (c) all food manufacturers, distributors, transporters and all others concerned with the international trade in food - particularly in respect of Article 6.1 (c) - who should take into account, as appropriate, the General Principles in Article 4,

and further, will depend on

- such cooperation and consultative procedures as may be established between governments of importing and exporting countries, and, generally, between all those concerned with international trade, and
- the extent to which international food standards and related texts, elaborated by the Codex

Alimentarius Commission are considered and applied where relevant and appropriate.

7.2 In order to facilitate the implementation of the Code, countries should *take into account* the *Codex Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems* to the fullest extent possible.

7.3 The code should be promoted by governments in their respective territorial jurisdictions in accordance with their legal and administrative procedures regulating the conduct of exporters and importers.

ARTICLE 8 - EXCEPTIONAL CIRCUMSTANCES

8. Where special circumstances exist under which it is neither possible nor desirable to apply certain provisions of this code, as in the case of famines and other emergency situations (where the appropriate competent authorities in recipient and donor countries responsible for food control may decide to establish mutually agreed criteria), due regard should always be given to the basic principles of the safety of the food and other provisions of this code as may be applicable under those circumstances.

ARTICLE 9 - EXCHANGE OF INFORMATION

9. Countries denying entry to food for reasons involving serious considerations of human health or fraud and having reason to believe the food may be offered for sale in other countries should inform the competent authorities in the other countries in accordance with *the Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*. For emergency situations countries should follow the current version of the *Codex Guidelines for the Exchange of Information between Countries on Rejections in Food Control Emergency Situations*.

ARTICLE 10 DEVELOPING COUNTRIES

10. In the preparation and application of food regulations, countries should take into account the special needs and situation of developing countries, in conformity with the provisions of the SPS and TBT Agreements. While not lowering the level of consumer health protection, developed countries should recognize the limitations of developing countries to ensure that the food they produce, import and export meets international standards. Developing countries should *recognize their need* to ensure the safety and quality of the food they produce on the basis of international standards. Developed countries should facilitate programmes, including those of FAO and WHO, to enhance the capability of developing countries to produce, import and export safe and wholesome food.

EUROPEAN COMMUNITY

I. GENERAL REMARKS

The European Community welcomes the revision of the Code of Ethics because, since its last amendment in 1985, significant developments have taken place in the Codex system as well as in the rules of international trade.

While other rules intended to facilitate international trade in foods have been developed by other Codex Committees, a Code of Ethics is a useful instrument to set some guiding principles on ethical conduct for all those engaged in international trade. The Code should help to facilitate trade, while at the same time ensuring the protection of consumers' health.

The European Community wishes to make the following remarks :

1. Scope of the Code

The EC is of the opinion that the Code should be addressed to all those engaging in international trade in foods, including public authorities responsible for regulating international trade and private operators.

2. Implementation

Responsibility for implementation of the Code should be left to national authorities. The Codex system does not have the appropriate instruments to directly oblige private traders to comply with a Codex Code; only national authorities have this possibility.

3. Export and Re-export

The European Community considers that it is essential to include in the Code a specific statement concerning the problem of countries exporting food which does not correspond to their own national standards and the case of re-export of a food which has been refused entry.

It is necessary to ensure that a food exported or re-exported complies with the requirements set up by the importing country. In other circumstances, food can only be exported or re-exported if the importing country has expressly agreed. However, the European Community considers it fundamental to ensure that even where there is agreement of the importing country, food injurious to health or unsafe should not be exported or re-exported.

This principle is very important, in particular for developing countries and is now part of the general principles and requirements of food law applied by the Community (see Regulation of 28 January 2002 on “Food Law”).

Therefore, we suggest that the two new sentences in Article 6 be revised as follows:

For the first added sentence :

“Except in the case where food is injurious to health or unsafe, a food which does not comply with the national regulations of the exporting country can be exported if that food complies with the requirements set in the importing country regulations”;

For the second added sentence :

“Except in the case where food is injurious to health or unsafe, a food that has been exported and subsequently rejected should only be offered anew for import into another country if the precise reasons for the rejection are disclosed to the potential importer before re-export”.

II. OTHER REMARKS

Article 5 – Specific Requirements

On point 5.1, the European Community supports the expression “taking into account” rather than “through harmonization with”. Members should be allowed to establish their own national standards, provided that they have complied with their international obligations.

The specific sections relating to different areas should be simplified as they duplicate Codex’s existing provisions, and should be replaced by a general reference to Codex standards and related texts which are in any case applicable to all sections.

Article 7 – Responsibilities for implementation

This section should be modified according with the discussion of the Scope of the Code.

Point 7.1. b. (I) should be better clarified to take into account the conclusion on Article 6.1. (Exporting countries).

EUROPEAN NETWORK OF CHILDBIRTH ASSOCIATION (ENCA)

This Code governing the behaviour of not only governments but all participants in the food industry is essential to ensure the highest level of consumer protection and transparent and fair trade in food. It should be followed by all.

The following comments are submitted by ENCA to help in the revision of this important Code.

Proposed changes are **bolded**.

Add:

(f) **but must not be used to inhibit governments from setting adequate food regulations to attain the highest level of consumer protection;**

Change to read:

(g) The International Code of Marketing of Breast-Milk Substitutes and **all subsequent** relevant resolutions of the World Health Assembly sets forth **provisions** for the protection and promotion of breastfeeding which is

an important **factor in good infant health**;

Insert to read:

(b) second page: The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures and, where necessary, taking advantage of the work of **independent** international organizations competent to advise and provide assistance in these areas and particularly of the standards and related texts of the Codex Alimentarius Commission;

Change to read:

HEREBY RECOMMENDS THAT ALL THOSE ENGAGING IN THE PRODUCTION, TRANSPORTATION, STORAGE, DISTRIBUTION AND THE INTERNATIONAL TRADE IN FOOD COMMIT THEMSELVES TO THIS CODE AND UNDERTAKE ITS IMPLEMENTATION IN THE LARGER INTEREST OF THE WORLD COMMUNITY

Article 1 - Objective

Change to read:

1. The objective of this code is to establish standards of ethical conduct for all those engaged in international trade in food or responsible for **manufacturing, transporting, storing, distributing and** regulating it, and thereby to protect the health of consumers and promote fair trade practices.

Article 2 – Scope

Change to read:

2.1 This code applies to all foods **and drinks – food commodities, food products, novel foods, nutraceutical foods** - introduced into international trade and applies *mutatis mutandi* to concessional and food aid transactions **including non-governmental transactions**.

Change to read:

2.2 This code establishes standards of ethical conduct to be applied by all those concerned with international trade in food and **food aid, governments, manufacturers and distributors of food**

Article 4 - General Principles

Change to read:

4.1 International trade in food and food aid transactions should be conducted on the principles of consumer protection, food safety, **the right to unadulterated, accessible and wholesome food** and to fair trade practices and take into account the *Codex Principles for Food Import and Export Certification and Inspection*.

Change to read:

4.2. (a) has in or upon it any substance (DELETE in an amount) which renders it poisonous, harmful or otherwise injurious to **human health, animal health or the environment.....**

(d) Add **idealizing** after misleading

Add after deceptive **or that fails to reveal information that is material to consumer**. This addition makes it clear that a label or presentation can be misleading both by what it says and by what it omits.

Add:

4.2. (f) **contains ingredients of which the long-term impact on human health cannot be adequately assessed due to inconclusive scientific evidence**.

5.1. we prefer to have **through harmonization** and delete [taking into account]

5.2.

It is vital that the article 5.2 remains part of the text. This critical section includes recommendations for infants, children and vulnerable groups and makes an important reference to the International Code of Marketing of Breastmilk Substitutes.

New 5.4

We want to have former 5.9 in again! Which reads

All foods and food products containing ingredients derived from biotechnology should be labeled as such.

5.3. Delete brackets around 5.3.a and b and keep the text

Article 6 - Implementation

Add to read:

6.1

- (a) to such food legislation, regulations standards, codes of practice and other and legal administrative procedures as may be in force in the exporting, **transshipping**, and importing countries;
- (d) in the absence of such provision, to such standards and requirements as **have been** agreed upon, **by member states including the International Code of Marketing of Breast-milk Substitutes** and in **conformity with** the provisions of the Codex Standards and related texts. **(delete remainder of the sentence).**

New sentence before 6.2. delete “and” at the end and add: **if the requirements of the importing country are higher.**

Change taking into account to comply with

6.2 Where the General principles stated in Article 4 above, as expanded in specific terms In Article 5, are not covered by appropriate food legislations, regulations, standards, codes of practice and other legal and administrative procedures in the importing country, food that is exported should conform to the General Principles stated in Article 4, and **comply with** such standards elaborated by the Codex Alimentarius Commission as applicable to the food or practice concerned.

6.3. We support the last sentence of this paragraph

Article 7 - Responsibilities for Implementation

7.1 Implementation of this code rests with:

Add at the end and in article 5.

Further on add the following sentences

They should ensure that:

- (i) **their employees are fully informed of the contents of this code and the ethical principles embodied therein, and their responsibilities under it;**
- (ii) **independent of any other measures taken for implementation, manufacturers and distributors are responsible for monitoring their products and policies according to the articles of this Code and for ensuring that their conduct at every level conforms with them.**
- (iii) **Non-governmental organizations, professional groups, institutions, and individuals concerned should have the responsibility of drawing attention of governments, manufacturers and distributors to activities which are incompatible with the principles and the aims of this Code, so that appropriate action can be taken.**

Article 8 – Exceptional Circumstances

8. Change the two last lines to read:

they should ensure that their policies and practices conform to Articles 4,5 and 6 of this Code.

Article 10

There is none in the actual draft but we support the text submitted in 2001 by Consumers International

“Member governments, FAO and WHO should ensure an independent and transparent risk assessment, They should take steps to ensure that all parties including private parties engaged in the course of international trade

should ensure that there is no perceived or actual conflict of interests of experts on international expert bodies involved in risk assessment. That all such experts should act independently, declare their financial conflict of interest truthfully and openly to all concerned and ensure impartiality in their work as experts and disclose to all interested parties the nature of any information which they make available to any one party, such as private commercial parties in industry or one or more governments”.

New article 12.

Review

The code of ethics shall be reviewed and updated every two years to address new issues as they arise.

INTERNATIONAL BABY FOOD ACTION NETWORK (IBFAN)

The Code of Ethics governing the behaviour of not only governments but all participants in the food industry is essential to ensure the highest level of consumer protection and transparent and fair trade in food. It should be the basis of all Codex work and be followed by all those in food manufacture and trade.

The following comments are submitted by IBFAN to help in the revision of this important Code.

Proposed changes are **bolded**.

PREAMBLE

RECOGNIZING THAT

Add to read:

(a) Adequate, safe, **unadulterated, accessible** and wholesome food is a vital element for the achievement of **adequate** standards of living and that the right to a standard of living adequate for health and wellbeing of individual is proclaimed in the Universal Declaration of Human Rights...and the **International Covenant of Economic, Social and Cultural Rights**;

(d) There is **increasing worldwide concern** about food safety, **the food safety of processed and genetically modified foods, deregulation of food safety standards, misleading claims about food products, improper food processing, food contamination**

Add:

(f) **but must not be used to inhibit governments from setting adequate food regulations to attain the highest level of consumer protection;**

Change to read:

(g) The International Code of Marketing of Breast-Milk Substitutes and **all subsequent** relevant resolutions of the World Health Assembly sets forth **provisions** for the protection and promotion of breastfeeding which is an important **factor in good infant health**;

AND CONSIDERING THAT:

Insert to read:

(b) The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures and, where necessary, taking advantage of the work of **independent** international organizations competent to advise and provide assistance in these areas and particularly of the standards and related texts of the Codex Alimentarius Commission;

Change to read:

HEREBY RECOMMENDS THAT ALL THOSE ENGAGING IN THE PRODUCTION, TRANSPORTATION, STORAGE, DISTRIBUTION AND MANUFACTURE OF FOOD PRODUCTS AND THE INTERNATIONAL TRADE IN FOOD COMMIT THEMSELVES TO THIS CODE AND UNDERTAKE ITS IMPLEMENTATION IN THE LARGER INTEREST OF THE WORLD COMMUNITY

Article 1 - Objective

Change to read:

1. The objective of this code is to establish standards of ethical conduct for all those engaged in international trade in food or responsible for **manufacturing, transporting, storing, distributing and** regulating it, and thereby to protect the health of consumers and promote fair trade practices.

Article 2 – Scope

Change to read:

2.1 This code applies to all foods **and drinks – food commodities, food products, novel foods, nutraceutical foods** - introduced into international trade and applies *mutatis mutandi* to concessional and food aid transactions **including non-governmental transactions**.

Change to read:

2.2 This code establishes standards of ethical conduct to be applied by all those concerned with international trade in food and **food aid, governments, manufacturers and distributors of food**

Article 3 - Definition and Interpretation

Although the definition of food in the Code of Ethics is based on the definition contained in the CAC Procedural Manual (pg 42, 10th edition), it needs to be up-dated. IBFAN proposes the following definition:

3.1 For the purposes of this code, “foods means any **food, food ingredient, or food substance, whether processed naturally or synthetically**, semi-processed, raw, or **genetically altered** which is intended for human consumption and includes drink, **medicinal foods, nutraceutical foods, novel foods**, or any substance which has been used in the manufacture, preparation or treatment of “food” but does not include cosmetics or tobacco or substances used only in drugs.

Article 4 - General Principles

Change to read:

4.1 International trade in food and food aid transactions should be conducted on the principles of consumer protection, food safety, **the right to unadulterated, accessible and wholesome food** and to fair trade practices and take into account the *Codex Principles for Food Import and Export Certification and Inspection*.

Change to read:

4.2 (a) has in or upon it any substance (DELETE in an amount) which renders it poisonous, harmful or otherwise injurious to **human health, animal health or the environment.....**

4.2 (d) Add **idealizing** after misleading

Add after deceptive **or that fails to reveal information that is material to consumer**. This addition makes it clear that a label or presentation can be misleading both by what it says and by what it omits.

Add:

4.2 (f) **contains ingredients of which the long-term impact on human health cannot be adequately assessed due to inconclusive scientific evidence**.

ARTICLE 5-SPECIFIC REQUIREMENTS

FOOD STANDARDS

5.1. we prefer to have **through harmonization or better - IN CONFORMITY WITH** and delete [taking into account]

please add:

The monitoring and enforcement of Standards and food Laws must be adequately sourced.

FOODS FOR INFANTS AND, CHILDREN AND OTHER VULNERABLE GROUPS

5.2.

It is vital that the article 5.2 remains part of the text. This critical section includes recommendations for infants, children and vulnerable groups and makes an important reference to the International Code of Marketing of Breastmilk Substitutes.

Add: ALL FOODS AND FOOD INGREDIENTS DERIVED FROM BIOTECHNOLOGY SHOULD BE LABELLED AS SUCH

ALL FOODS AND FOOD PRODUCTS LABELLED ORGANIC SHOULD CONFORM TO THE REQUIREMENTS OF THE CAC.

New 5.4

We want to have former 5.9 in again! Which reads: All foods and food products containing ingredients derived from biotechnology should be labeled as such

All foods and food products containing ingredients derived from biotechnology should be labeled as such.

5.3. Delete brackets around 5.3.a and b and keep the text

Article 6 - Implementation

Add to read:

6.1

- (b) to such food legislation, regulations standards, codes of practice and other and legal administrative procedures as may be in force in the exporting, **transshipping**, and importing countries;
- (e) in the absence of such provision, to such standards and requirements as **have been** agreed upon, **by member states including the International Code of Marketing of Breast-milk Substitutes** and in **conformity with** the provisions of the Codex Standards and related texts. **(delete remainder of the sentence).**

New sentence before 6.2. We ask to delete it

Change taking into account to comply with

6.2 Where the General principles stated in Article 4 above, as expanded in specific terms In Article 5, are not covered by appropriate food legislations, regulations, standards, codes of practice and other legal and administrative procedures in the importing country, food that is exported should conform to the General Principles stated in Article 4, and **comply with** such standards elaborated by the Codex Alimentarius Commission as applicable to the food or practice concerned.

6.3. We support the last sentence of this paragraph

Article 7 - Responsibilities for Implementation

7.1

Add these sentences at the end of c.

They should ensure that:

- (iv) **their employees are fully informed of the contents of this code and the ethical principles embodied therein, and their responsibilities under it;**
- (v) **independent of any other measures taken for implementation, manufacturers and distributors are responsible for monitoring their products and policies according to the articles of this Code and for ensuring that their conduct at every level conforms with them.**
- (vi) **Non-governmental organizations, professional groups, institutions, and individuals concerned should have the responsibility of drawing attention of governments, manufacturers and distributors to activities which are incompatible with the principles and the aims of this Code, so that appropriate action can be taken.**

Article 8 – Exceptional Circumstances

8. Change the two last lines to read:

they should ensure that their policies and practices conform to Articles 4,5 and 6 of this Code.

Article 10 there is none in the actual draft but we support the text submitted in 2001 by Consumers International

“Member governments, FAO and WHO should ensure an independent and transparent risk assessment, They should take steps to ensure that all parties including private parties engaged in the course of international trade should ensure that there is no perceived or actual conflict of interests of experts on international expert bodies involved in risk assessment. That all such experts should act independently, declare their financial conflict of interest truthfully and openly to all concerned and ensure impartiality in their work as experts and disclose to all interested parties the nature of any information which they make available to any one party, such as private commercial parties in industry or one or more governments”.

New article 12.

Review

The code of ethics shall be reviewed and updated every two years to address new issues as they arise.