

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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Agenda Item 5

CX/GP 04/20/5

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

Twentieth Session

Paris, France, 3 - 7 May 2004

PROPOSED DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOODS (At Step 3 of the Procedure)

The 13th Session of the Committee on General Principles agreed to undertake the revision of the Code of Ethics for International Trade in Foods and this new work was subsequently approved by the 23rd Session of the Commission (1999). The current Code was circulated for comments and redrafted by the Secretariat in the light of the comments. The 15th and 16th Sessions of the Committee discussed the general aspects of the text and the 17th Session discussed the Preamble in detail. The 18th Session of the Committee (2003) considered sections 1 to 4 and agreed on a number of changes but could not consider the entire text due to time constraints. The Committee agreed to return the Proposed Draft Code to Step 2 for redrafting by the Secretariat in the light of the decisions and suggestions made during the session (ALINORM 03/33A, para. 73).

The revised text incorporates the amendments made by the Committee and takes into account the recommendations put forward in the discussion. As the rest of the Code was not considered and several questions remain to be addressed, no substantial changes have been made but some sections have been reordered, as indicated in the introductory part of the document ([Annex 1](#)). The revised text is attached as [Annex 2](#).

The Proposed Draft Revised Code is hereby circulated for government comments at Step 3. Governments and international organizations wishing to submit comments should do so in writing to the Secretary, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, FAO, viale delle Terme di Caracalla, 00100 Rome, Italy, Fax: +39 (06) 5705 4593, E-mail: codex@fao.org, with a copy to the Codex Contact Point for France, SGCI/CODEX, Carré Austerlitz, 2 Boulevard Diderot 75703 Paris Cedex 12, Fax. 33 (0)1 4487 16 04, Email: sgci-codex-fr@sgci.gouv.fr, **before 5 April 2004**.

INTRODUCTION TO THE REVISED VERSION

PREAMBLE

The Preamble had been amended at the 17th session and was retained without changes by the 18th session. An additional paragraph based on Paragraph 1 of the General Principles of the Codex Alimentarius was inserted in order to address the facilitation of trade, as proposed by the Committee.

ARTICLES 1 AND 2

Articles 1 and 2 were amended for clarification purposes as agreed by the Committee.

ARTICLE 3

The definition was retained for consideration in the framework of the Code. The Committee had agreed that the Secretariat should prepare a discussion paper considering the issues related to this definition. This paper will be prepared as a separate document (CX/GP 04/20/5-Add.2).

ARTICLE 4

The Committee had recognized the need to improve the structure of the document, especially the relationship between Articles 4, 5 and 6, that might be combined. The Articles were reordered according to the type of recommendations covered by the different sections. General recommendations addressing fair trade practices, the establishment of food standards and consideration of developing countries, initially included in other Articles, were grouped under Article 4 - General Principles. Article 10 on developing countries was included in these general recommendations, as recommended by the Committee, and it was combined with the earlier Article 6.5 in order to avoid duplication.

Article 4.1 was amended by the insertion of the text proposed by the last session of the Committee. The Committee had not come to a consensus on the reference to the SPS and TBT Agreements and the text of Article 4.2 was retained in square brackets. An additional sentence initially included in Article 6 was included as an alternative referring more generally to “unjustified barriers to trade” for consideration by the Committee.

In Article 4.4 (former 5.1), the Committee had discussed earlier whether national legislation should “take into account” or “be in accordance with” Codex standards, but no consensus could be reached. Both expressions were therefore retained in square brackets for further discussion.

ARTICLE 5

Article 5 was reordered to include the provisions applying to food moving in international trade, to be considered separately from the recommendations on import and export procedures, that were grouped under Article 6 – Implementation. This reordering is proposed as a basis for discussion, since it had not been considered in detail by the Committee and no precise recommendation had been made in this respect.

In Article 51(former 6.1) the relationship between regulations in the exporting and importing countries and Codex texts will require further consideration. This issue had been raised in earlier comments but it has not been discussed so far and the current section was retained.

Article 5.3 (former 4.3) was retained in square brackets for further discussion and Article 5.4 (former 4.4) was amended as decided by the Committee.

The provisions concerning the export of food that does not correspond to national regulations was also included in Article 5 as section 5.2 (former section 6.1, last paragraph). The text of the section, that resulted from earlier comments, was retained as this issue has not yet been discussed in the Committee.

ARTICLE 6

Article 6 was reordered and simplified to include only the provisions concerning the action that may or should be taken by countries at the export and import stage. The text of these provisions was retained as they have not yet been discussed.

ARTICLE 7

References to other articles were updated and the structure reordered.

PROPOSED DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD
CAC/RCP 20-1979, Rev. 1 (1985)
 (At Step 3 of the Procedure)¹

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 and safety 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; the establishment of effective food control systems can lead to improvements in this situation;
- (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 certain 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 Rome Declaration and the Plan of Action of the World Food Summit encourage 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) Member countries may encounter difficulties in complying with the food regulations of importing Member countries, and as a consequence in access to markets;

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 publication of the Codex Alimentarius is intended to assist in the harmonisation of the definitions and requirements for food and in doing so to facilitate international trade;
- (c) The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures, taking into account the standards and related texts of the

¹ Additions to the earlier version are underlined

Codex Alimentarius Commission and, where necessary, taking advantage of the work of international organizations competent to advise and provide assistance in these areas;

- (d) 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;
- (e) 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 member countries commit themselves to the ethical framework set forth in this code and undertake to support its implementation in the larger interest of the world community.

ARTICLE 1 - OBJECTIVE

1.1 The objective of this code is to provide [advice/guidance] to governments and thereby to protect the health of the consumers and ensure fair practices in the food trade.

1.2 The code is designed for use by member governments, by those engaged in international trade and by producers and consumers in order to judge whether trade practices are acceptable.

ARTICLE 2 - SCOPE

This code applies to all food introduced into international trade and applies *mutatis mutandi* to concessional and food aid transactions.

ARTICLE 3 - DEFINITION

"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.

ARTICLE 4 - GENERAL PRINCIPLES

4.1 International trade in food and food aid transactions should be conducted in a manner that is consistent with the objectives of ensuring the protection of consumers' health and fair practices in food trade, especially taking into account the Codex *Principles for Food Import and Export Inspection and Certification*.

[4.2 International trade in food should be consistent with the obligations of member countries under the SPS and TBT Agreements.]

4.3 Countries should ensure that their national regulations do not create unjustified barriers to trade.

4.4 Appropriate national food standards, based on risk analysis where applicable, should be established and enforced [through harmonization with] [taking into account] the standards and related texts established by the Codex Alimentarius Commission.

4.5. 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, importing countries should recognize the difficulties of developing countries in ensuring that the food they produce, import and export meets international standards.

4.6. Developing countries 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.

ARTICLE 5 – REQUIREMENTS FOR FOOD IN INTERNATIONAL TRADE

5.1 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 as may be in force in the exporting and/or importing country; when these are more stringent than the requirements in relevant Codex standards and related texts, the importing country should inform the exporting country accordingly; or
- (c) to the provisions contained in bilateral or multilateral agreements signed by the exporting country and the importing country; or
- (d) 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.

5.2 Except when the food represents a hazard to health, 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.

[5.3 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; or
- (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
- (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;
- (f) has a remaining shelf-life that will not allow its distribution in the importing country before the expiry date.]

5.4 The provisions of Article 5.3 a) and b) do not prevent the export of raw or semi-processed foods which are not edible as such in order to be further processed, reprocessed or reconditioned in the importing country for the purpose of human consumption. Where special processing or culinary practices or storage conditions or any specific conditions are required to render the food harmless, the exporter should provide adequate information on such processing or conditions to the importer.

Specific Requirements: Foods for Infants, Children and other Vulnerable Groups

5.5 Food for infants, children and other vulnerable groups should be in accordance with standards elaborated by the Codex Alimentarius Commission. The marketing and labelling of foods for infants and children should be in accordance with relevant provisions of the International Code of Marketing for Breast-milk Substitutes (Article 9), World Health Assembly resolutions and Codex standards and related texts.

ARTICLE 6 - IMPLEMENTATION

6.1 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 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.

6.2 Except when the food represents a hazard to health, food that has been exported and subsequently rejected may be

- allowed to be re-exported to the exporting country; or
- allowed to be re-exported to another country only if the precise reasons for the rejection are disclosed to the potential importer before re-export.

ARTICLE 7 - RESPONSIBILITIES FOR IMPLEMENTATION

7.1 The implementation of this code rests with:

- (a) member countries who should,

- (i) 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;
 - (ii) 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 5.1 (d) – to ensure that the Requirements of Article 5 are taken into account; and
- (b) more especially 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 5.1 or 5.2;
 - (ii) promptly notify the importing country of the exportation of shipments of food found not to comply with Article 5.1 when legal or administrative means of preventing exportation are not available or were unsuccessfully applied or where non-compliance was determined after exportation;
 - (iii) 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.

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 [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.

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 that 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*. In addition, should an exporting country become aware of a problem related to an exported food product, the exporting country should immediately inform the competent authority in the importing country about the problem.

~~ARTICLE 10 - DEVELOPING COUNTRIES~~ [Transferred to **Article 4- General Principles**]