

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
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Agenda Item 10

CX/GP 04/21/11

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

**Twenty-first (Extraordinary) Session
Paris, France, 8-12 November 2004**

ACCEPTANCE AND NOTIFICATION PROCEDURES FOR CODEX STANDARDS

Background

1. The issue of the relevance of the current acceptance and notification procedures for Codex standards was raised at the 19th (Extraordinary) Session of the Committee on General Principles, and could not be discussed due to time constraints (ALINORM 04/27/33, para. 120).
2. The 20th Session of the Committee had a general discussion on these procedures under Other Business and Future Work. The Codex Secretariat recalled that the procedures for the notification of acceptance and publication, which were practically not used by the Commission and its Members, had been reviewed in the past sessions of the Committee, without reaching consensus as to whether the current provisions should be removed or amended.
3. Some delegations stated that the procedures needed to be revised but not eliminated. Other delegations expressed the view that these procedures were not used by Codex Members and that given the status of Codex standards and related texts under the WTO Agreements the acceptance procedures of Codex had become obsolete and should therefore be eliminated. The relationship with the notification procedures of the WTO was also mentioned.
4. The Representative of the World Trade Organization stated that within the WTO context the formal acceptance or otherwise by countries of Codex texts was irrelevant. Although WTO Members had the obligation to notify their national measures only if they deviated from international standards, they were encouraged to notify also the use of Codex standards. If new notification procedures were to be considered by Codex, they should be developed in coordination with WTO to avoid duplication.
5. The Committee agreed to request the Codex Secretariat to prepare a discussion paper for the 21st Session of the Committee, which would contain a summary of the previous work and possibilities for revision of the procedures (ALINORM 04/27/33A, paras. 128-132). The present document recalls the background and earlier discussions related to acceptance and notification procedures in order to facilitate consideration of various options for further action by the Committee.

Consideration of acceptance procedures in Codex

6. The 21st Session of the Commission (1995) considered the implications of the WTO SPS and TBT Agreements, including matters related to the acceptance of Codex standards. The Commission agreed that the Committee on General Principles should undertake the revision of the acceptance procedure as a matter of high priority and develop the format of a revised notification scheme which would include information about the use of Codex standards and related texts, to meet the needs of Codex Members and also the needs of WTO Members under the SPS Agreement, and consequential revisions should be made to the Guidelines for the Acceptance Procedure.

7. The 12th Session of the Committee on General Principles (1996) recognized that the current acceptance procedures, although they offered transparency in the use of Codex standards, had not completely achieved this goal and in any case were no longer appropriate in the light of the SPS and TBT Agreements. The Committee recommended that revised and simplified proposals be prepared for the next session (ALINORM 97/33, para.23).

8. The 22nd Session of the Commission recommended that the acceptance procedure be revised along the lines proposed by the Committee rather than abolished (ALINORM 97/4, para. 19; ALINORM 97/37, paras. 174-175).

9. The 13th session of the Committee (1998) had a general discussion on the acceptance procedure and reasserted that the procedure should not be abolished but updated and simplified, and the text was amended accordingly for consideration by the 14th Session.

10. The document presented to the 14th session of the Committee (CX/GP 99/6) recalled that for the purpose of international trade, acceptance of a standard by member countries was not taken into account or recognized in the framework of WTO, and that obligations existed independently of acceptance as a consequence of the SPS and TBT Agreements. It was therefore proposed to discontinue acceptance in its present form as it might create duplication with the obligations of member countries Agreements and might even be in conflict with them.

11. The document proposed to replace acceptance and the obligations it entailed with a system of notification that would provide information to member countries and facilitate the monitoring of harmonization of national regulations with international standards and related texts. Following earlier discussions on the scope of such notification, this new procedure would apply not only to standards, but to all Codex texts. The purpose of notification should be to provide a comparative record of national and Codex texts, for information purposes only, and without any of the legal implications included in the current acceptance provisions.

12. The revised system would focus on the comparison aspects, in order to provide a general view of the similarities and differences between national and international requirements. Consequently, all relevant national regulations should be taken into account in the reply, whether they are new/amended or not. In this perspective, Members would also be asked to provide information on the use of Codex texts, especially whether they are integrated in the national legislation, applied for import or export purposes, or used as a reference when no national legislation exists. Under *Notification of Status and Use of Codex Standards and Related Texts*, governments would have the possibility to report on the status of national regulations in relation with Codex texts, that might range from approximation to use as reference.

13. The document also included several proposals for the amendment of the Guidelines for the Acceptance Procedure of Codex Standards as a result of the amendment of the General Principles. However these were not discussed as there was no consensus on the revision of the procedures.

14. The 14th Session of the CCGP did not discuss the document in detail as there was no consensus in principle on how to proceed with the revision. Several delegations stated that the Acceptance Procedure had no legal meaning or was redundant, and was of little or no practical use, and questioned its practical implementation in whatever form. Furthermore, in any form, it would constitute a burden for Member countries and additional work for the Secretariat. Some Delegations called for its abolition.

15. Other Delegations were of the opinion that a notification procedure would be useful because it would provide additional transparency of national requirements and could also be used as a measure of performance. Some Delegations stated that the understanding of the status of Codex Standards and related texts in relation to the WTO Agreements was still in a state of flux, and since the status of Codex texts was linked to the Acceptance Procedure, it would be preferable not to make any changes for the time being. The Committee agreed to advise the Commission that due to the diversity of opinions it was not possible to recommend changes to the current Acceptance Procedure at the present time. The

Committee agreed to return to this matter in the future, but decided that it would not be appropriate to include the matter on the agenda of its next session (ALINORM 99/33A).

Current status

16. As no consensus was reached in earlier sessions of the Committee on General Principles, the acceptance and notification procedures were retained without any change. This question was not discussed further in the Commission or in the Committee following the discussion in the 14th Session.

17. The Committee therefore is invited to consider whether the current procedures should be revised or abolished in the light of the above information on earlier consideration of acceptance and notification procedures.

18. If the Committee decides to abolish the procedures, the proposal could be made directly to the 28th Session of the Commission. If it decides to undertake a revision of the provisions on acceptance in the *General Principles of the Codex Alimentarius*, the current provisions could be circulated for government comments, and in particular specific proposals on the amendment of the current text, subject to the approval of the Commission as new work.