

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD  
HEALTH  
ORGANIZATION



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Agenda Item 3

CX/GP 10/26/3

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

Twenty-sixth Session  
Paris, France, 12 - 16 April 2010

### DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD

#### Comments at Step 6 (CL 2009/27-GP)

(Canada, Colombia, Costa Rica, Dominican Republic, Egypt, European Union, Iran, Japan,  
Kenya, Mexico, New Zealand, Philippines, Thailand, United States)

#### Canada

Canada supports the Draft Revised Code of Ethics for International Trade in Foods as elaborated by the 24<sup>th</sup> Session of the CCGP, which was adopted at Step 5 by the 32<sup>nd</sup> Session of the CAC. The proposed draft presents a concise statement of principles to be followed by those engaged in international trade in order to protect the health of consumers and to ensure fair practices in food trade.

Canada is of the view that these principles adequately address the objectives of the existing Code of Ethics and provide sufficient guidance to governments. Further, Canada believes that many of the “implementation issues” contained in the existing Code are related to insufficient capacity to carry out imported food controls due to the lack of infrastructure (e.g., the need to strengthen regulatory control systems in these countries) and not to a lack of guidance in Codex texts.

Canada, therefore, supports these principles being forwarded to the Commission for adoption at Step 8.

#### Colombia

First, our remarks are in reference to the Spanish version of the Annex to CL 2009/27-GP.

#### I. Article 1- Objective

Considering that the establishment of principles is merely one part of the Code of Ethics, we propose replacing the word “principles” by “guidelines” in line one of 1.1.

On the other hand, as other texts than the Code also aim at protecting the health of the consumers and ensuring fair practices in the food trade, we suggest mentioning that the Code **contributes** to reaching the objectives of Codex. Consequently, we propose the following draft for paragraph 1.1:

1.1 The objective of this Code is to establish guidelines for the ethical conduct of international trade in food, thereby contributing to protecting the health of the consumers and ensuring fair practices in the food trade.

## II. Article 2 – Scope

So that 2.1 and 2.2 agree, and to avoid repeating the terms “establish principles for the ethical conduct” in the Objective and in the Scope, and considering that ethical conduct of international trade in food applies to persons and their activities, but not to the product as such, we propose merging 2.1 and 2.2 into one paragraph, as suggested in 2.1 below.

Furthermore, in this point, it is suggested that the code of ethics should be implemented at the national and international level, so that the national level tends toward consistency with the international guidelines of Codex Alimentarius for protecting consumer health and ensuring fair practices in the food trade.

2.1. This Code applies to all parties involved in international trade in food, including concessional and food aid transactions. Governments should work with other parties to promote ethical conduct at the national level, consistent with the objective of this Code.

## III. Article 3 - Principles - 3.2

For further clarity and consistency with the description of the related hazards and risks that may affect the safety and health of food, we propose the following principles that include some changes to the principles in the document:

3.2 No food (including re-exported food) should be international trade which:

- a) Has in or upon it any hazard in an amount which renders it injurious to health, taking into account the application of risk analysis principles; or
- b) Is adulterated, altered or decomposed making it unfit for human consumption; or
- c) Is labelled, presented or advertised in a manner that is false, deceptive, or misleading<sup>1</sup>; or
- d) Is prepared, packaged, stored, transported or marketed under unsanitary conditions; or
- e) Has an expired use-by date, expiration date or best-before date; or
- f) Does not leave sufficient time for distribution before the expiration of its use-by date (or expiration date or recommended best-before date).

### Costa Rica

Costa Rica would like to say that, compliant with the agreement reached at the 25<sup>th</sup> Meeting in Paris, held from 30 March to 3 April 2009, various adjustments should be made to the wording of the document so that it reads as follows:

#### Re. ARTICLE 3 – PRINCIPLES

**3.1** “*International trade in food should must be conducted on the principle that all consumers are entitled to safe, sound and wholesome food and to protection from unfair trade practices.*”

#### Paragraph 3.1.

**Point b.** “*consists in whole or in part of any filthy, putrid, rotten or decomposed substance or foreign matter, or is otherwise unfit for human consumption; or*”

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<sup>1</sup> When special processing is required so that a raw or semi-processed food is no longer unsafe; the exporter has to provide the relevant information concerning said processing.

**Point f.** “has a remaining shelf life, where applicable, which does not leave sufficient time for distribution in the importing country before the expiration date.”

#### Re. **ARTICLE 4.**

**4.1** “Competent authorities involved in assuring the safety and suitability of food in international trade ~~should~~ must apply principles of ethical conduct as mentioned in Article 3.”

**4.2 and 4.3** [Corrections do not apply to the English version.]

**4.4** “National authorities should be aware of their obligations under the International Health Regulations (2005) with regard to food safety events, including notification, reporting or verification of events to the World Health Organisation (WHO). They should also make sure that the International Code of Marketing of Breast Milk Substitutes and relevant resolutions of the World Health Assembly (WHA) ~~setting forth principles for the protection and promotion of breast feeding~~ be observed.”

#### **Dominican Republic**

The Dominican Republic suggests the following modifications to Articles 4.1 and 4.3.

a) Article 4.1: [Corrections do not apply to the English version.]

b) Article 4.3:

o In Article 4.3, we suggest:

- Rearranging the text; and
- Adding ‘or in concessional or food aid transactions’ after the word ‘international’.
- [The following correction does not apply to the English version].

Article 4.3 would read as follows:

4.3 Unsafe or unsuitable food as described in Article 3.2 should not be placed in international trade or in concessional or food aid transactions for the purpose of disposing of it.

#### **Egypt**

3.2 No food (including re-exported food) should be in international trade which<sup>2</sup>:

- a) ...
- b) consists in whole or in part of any filthy, putrid, rotten or decomposed substance or foreign matter, or is otherwise unfit **or unacceptable** for human consumption; or
- c) is adulterated, **expired**; or
- d) ...
- e) ...
- f) has **at least a half shelf life or** a remaining shelf life, where applicable, which does not leave sufficient time for distribution in the importing country before the expiration date.

#### **European Union**

The European Union and its Member States (EUMS) support the Draft Revised Code of Ethics as it currently stands.

The draft Code is strictly focussed on the ethical aspects of international trade and does not reiterate what other Codex texts and the WTO Agreements already state.

The basic aim of the WTO/SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate while ensuring that these sovereign rights are not misused for protectionist purposes and do not result in unnecessary barriers to international trade. The WTO/SPS Agreement does not aim to protect countries which have not yet set up standards or means of control of food to ensure the consumer protection.

The Code of Ethics should focus on this aspect of international trade: it should aim at what represents a moral duty to be applied in international trade to protect the most vulnerable consumers in countries which do not have yet the means of checking well the quality and the safety of the imported food. A country should not export or re-export food to a country which has not yet established food standards and/or which does not have, or has few means of controls at its border, if this food does not fulfil the national standards of the exporting country, or the Codex Alimentarius standards, or is generally recognized dangerous, unfit for human consumption, adulterated, or misleading to the consumers.

## Iran

•We are pleased to see that the latest draft incorporates many of not only Iran's recommendations, but also that of the valuable points raised by other contributing international bodies.

•Although we remain of the opinion that a suitable PREAMBLE would enhance this document. It would serve to properly introduce and establish the basis for the elaboration of a Code of Ethics, prior to the actual specifics as detailed in the current draft. It is noted that the EUMS (European Union and its Member States) are also in favour of a preamble.

•Again in accordance with the EUMS' viewpoint, we are also of the opinion that a reference to the resolutions of the World Health Assembly (WHA) on breast-feeding in section '4.4' is somehow out of context. Notwithstanding the indisputable values inherent to the practice of breast-feeding, we feel that the elaboration of such a specific topic would be better served elsewhere.

## Japan

### ARTICLE 3 - PRINCIPLES

In **paragraph 3.1**, the following amendments should be made:

3.1 International trade in food should be conducted ~~on the principle that all consumers are entitled to safe, sound and wholesome food and to protection from unfair trade practices~~ **in accordance with Article 1 of this code.**

*Rationale:*

1. *The content of this paragraph is almost the same as that of Article 1.*
2. *It may be problematic to use the word "entitled". Food poisoning is every day event to happen to everyone. We cannot say "Some consumers infected by deteriorated/poisoned food are not entitled to safe food."*

**Paragraph 3.2**, point b) should be amended as follows:

b) consists in whole or in part of any filthy, putrid, rotten or decomposed substance or foreign matter **in quantity that exceeds what is permitted by the codex standards**, or is otherwise unfit for human consumption; or

*Rationale: Codex standards allow presence of extraneous matter if they are within a certain numerical limit, e.g., 1% of extraneous matter (dust, twigs, seed coats, seeds of other species, dead insects, fragments, or remains of insects, other impurities of animal origin) of which not more than 0.25% shall be mineral matter and not more than 0.10% shall be dead insects, fragments or remains of insects, and/or other impurities of animal origin (Codex standard for certain pulses).*

**Paragraph 3.2**, point e) should be amended as follows:

e) is prepared, packaged, stored, transported or marketed under unsanitary conditions; **the judgment of unsanitary condition should take into account provisions in Guidelines of the Judgment of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems, CAC/GL 53-2003**; or

*Rationale: This paragraph is related to the "equivalence". If the same objective can be attained by different sanitary measures, these measures should be permitted. See Guidelines of the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems, CAC/GL 53-2003.*

## Kenya

The Commission at its 32<sup>nd</sup> session adopted the Proposed Draft Revised Code of Ethics at Step 5. The Commission emphasized however that this meant that the general structure of the draft had well advanced and only specific proposals on the text should be made and no general debate on the scope reopened. The Commission also emphasized the need to finalize this work within the next session of the CCGP

*Kenya would like to acknowledge the good work done by codex committee members on General Principle committee and thank them.*

*We would like to inform the committee that we have no comment to make on Articles 1-4 which was circulated for comments. The code of ethic as is ensures consumers' safety and fair food trade practices.*

## Mexico

In general, we consider that it is a suitable document. However, there was a consensus that the Code should not list the compliance with the International Code of Marketing of Breast Milk Substitutes and the relevant resolutions of the World Health Assembly (WHA), seeing as they establish principles only for the protection and promotion of breast-feeding. We consider that this issue should be promoted through product labelling at the Committee on Food Labelling or through other strategies that the Committee on Nutrition and Foods for Special Dietary Uses considers relevant.

It should be pointed out that there are standards and guidelines on the nutritional claims for foods for babies on breast milk (see the list below), that it would be relevant to amend and update to promote breast-feeding.

1. GENERAL STANDARD FOR THE LABELLING OF AND CLAIMS FOR PREPACKAGED FOODS FOR SPECIAL DIETARY USES (**CODEX STAN 146-1985**)
2. GENERAL GUIDELINES ON CLAIMS (**CAC/GL 1-1979**)
3. GUIDELINES FOR USE OF NUTRITION AND HEALTH CLAIMS (**CAC/GL 23-1997**)

So, we propose modifying 4.4 as follows:

4.4 National authorities should be aware of their obligations under the International Health Regulations (2005) with regard to food safety events, including notification, reporting or verification of events to the World Health Organisation (WHO). ~~They should also make sure that the international code of marketing of breast milk substitutes and relevant resolutions of the World Health Assembly (WHA) setting forth principles for the protection and promotion of breast feeding be observed.~~

The Spanish version also has to be corrected in the following paragraphs:

Paragraph 3.2 b)- “consists in whole or in part of any filthy, putrid, rotten or decomposed substance ~~or foreign matter~~ **with foreign matter**, or is otherwise unfit for human consumption; or”

[The following correction does not apply to the English version.]

## New Zealand

New Zealand was among the countries that supported the adoption of the Draft Code by the CAC at its 32<sup>nd</sup> session in July 2009 as submitted by the Codex Committee on General Principles. The revision of the Code of Ethics has been the subject of extensive debate and discussion over a long period of time. New Zealand believes that there is strong consensus on the scope and content of the revised Draft Code which captures the key high-level principles for the ethical conduct of international trade in food and would not be in favour of any further revision to the draft.

New Zealand therefore urges the Committee to support the draft as set out in CL 2009/27-GP and submit it for adoption by the 33<sup>rd</sup> session of the Codex Alimentarius Commission.

## Philippines

### General Comments:

Considering the substantive revisions of the document (CL 2009/27-GP) and the extensive discussions during the 24<sup>th</sup> CCGP, the Philippines supports the advancement of the document to Step 6 of the Codex procedure.

### Title

From (24 <sup>th</sup> CCGP document)	To
Draft Code of Ethics for International Trade in Food	Draft Code of Ethics for International Trade in Food <u>Including Concessional and Food Aid Transactions</u>

*Rationale: The Philippines supports the inclusion of concessional and food aid transactions on the scope of application of the code of ethics. In light of the influx of food aids from various countries and organizations especially during calamities, adding this phrase will ensure that safety of the concessional food and food intended for aid is highlighted the beneficiary country does not become a dumping ground for sub-standard food commodities.*

### Article 2 – Scope

#### Para. 2.2

From (24 <sup>th</sup> CCGP document)	To
This Code establishes principles of ethical conduct to be applied by all parties involved in international trade in food.	This Code establishes principles of ethical conduct to be applied by all parties involved in international trade in food. <u>Governments should work with all parties to promote ethical conduct at the national level.</u>

*Rationale: We support the paragraph as written as it addresses both the international and domestic trade. This should also enhance coordination and cooperation among all parties involved in all levels and channels of food trade, with government at the forefront of the effort.*

### Article 3 - Principles

#### Para. 3.2 (a)

From (24 <sup>th</sup> CCGP document)	To
has in or upon it any hazard in an amount which renders it poisonous, harmful or otherwise injurious to health; or	has in or upon it any hazard in an amount which renders it poisonous, harmful or otherwise injurious to health, <u>taking into account the application of risk analysis principles</u> ; or

*Rationale: The establishment of a national standard for contaminants, for example should be based on science and risk assessment.*

### Article 3 - Principles

#### Para. 3.2 (f) New Text:

“has a remaining shelf life, where applicable, which does not leave sufficient time for distribution in the importing country before the expiration date.”

*Rationale: Commodities should reach their final destination with sufficient remaining shelf-life to allow effective distribution up to the consumer, otherwise the principle and objective of safe food and fair trade is forfeited.*

## Thailand

Thailand recognises the importance of the Code for international and food aid and supports the revision of the Code. We, however, believe that the Code should be thoroughly considered for its practical application. We

believe that there are some points below which have to be revised before its adoption by the Commission at Step 8.

Specific Comments:

#### Article 3.2 (b)

The text in this Article is unclear and could cause a problem when it is used due to the differences among various countries' legislations on filthy or foreign matter. The filthy or foreign matter may be categorised into safety or quality aspects depending on types of food, circumstances or national situations. To clearly interpret, this text should be amended to the following:

“b) Consists in whole or in part of any filthy, putrid, rotten, decomposed or diseased substance or foreign matter, ~~or is otherwise~~ which renders it unfit for human consumption; or”

#### Article 4.1

We are of the view that the responsibility to apply principles of ethical conduct is not only to the competent authorities but also other stakeholders such as industries, exporters, etc. To clarify the use of the Code, we would like to change the text from “Competent authorities” to “All stakeholders”.

### **United States**

#### **GENERAL COMMENTS**

The United States recognizes, that in keeping with the dual mandate of Codex, there is value in having a Codex document stating the ethical principles to be followed by those engaged in the international food trade.

We believe the proposed Code succinctly states the essential principles that apply to the ethical trade of food. Additionally, it addresses several issues of importance to countries including concessional and food aid transactions, and the principle that food should not be placed in international trade for the purpose of disposing unsafe or unsuitable food.

We believe a Code of Ethics, developed by Codex should be specific with regards to the Codex mandate and should not repeat or paraphrase text that is covered by existing Codex documents or by international trade agreements.

Therefore, the United States can, with some modification, support the *Draft Revised Code of Ethics for International Trade in Food* presented in CL 2009/27-GP.

#### **SPECIFIC COMMENTS:**

##### **PRINCIPLES**

**Article 3.2f** – In regards to article 3.2f, the United States notes that the term “shelf life” has not been defined in *The Codex General Standard for the Labelling of Prepackaged Foods* or elsewhere in Codex texts (although we recognize it has been used in other documents). The *Codex General Standard for the Labelling of Prepackaged Foods* provides definitions for the following product date markings: date of manufacture, date of packaging, sell-by-date, date of minimum durability, and use-by date. Therefore, the United States suggests that the term “date mark” be substituted for the term “shelf life” and that Article 3.2 f) be revised to read as follows:

No food (including re-exported food) should be in international trade which *has a remaining durability and/or date mark, where applicable, which does not leave sufficient time for distribution in the importing country before the expiration date.*

The United States further notes that the expiration of a product may be affected by how that product is handled, transported, and stored in the importing country, factors which the exporting country or exporter often cannot control. Therefore, the United States suggests that a footnote be added for Article 3.2 f) which reads as follows:

*Product expiration may be affected by many factors including how the product is handled, transported, and stored in the importing country.*

#### **ARTICLE 4 – CONDITIONS NECESSARY FOR FOOD IN INTERNATIONAL TRADE**

**Article 4.1** The United States believes that for competent authorities involved in assuring the safety and suitability of food in international trade, the emphasis should be on creating national food control systems that do not allow practices such as those described in Article 3.2. Thus, the United States suggests the following alternate language:

*"Competent authorities involved in assuring the safety and suitability of food in international trade should strive to develop national food control systems that comply with the principles in Article 3."*

**Article 4.4.** We note that the Code contains a reference to the obligations of countries with respect to the World Health Organization (WHO) International Health regulations; in this regard, the United States can support this provision noting that the provision clearly relates to food safety.

While the United States acknowledges the importance of the resolutions of the WHO World Health Assembly on the subject of marketing of breast milk substitutes, we have two concerns regarding its inclusion in the Code of Ethics. First, we question whether it is appropriate to single out just one food for special mention in the Code. Secondly, we note that at the 32<sup>nd</sup> Codex Alimentarius Commission several delegations indicated that, with reference to the provision on breast milk substitutes, it was duplicative and therefore unnecessary, as it was referenced in other Codex documents. In this regard, we note, for example, that in Codex Standard 72, *Standard for Infant Formula and Formulas for Special Medical Purposes Intended For Infants*, paragraph 1.4, under SCOPE, contains the following, "The application of this section of the Standard should take into account the recommendations made in the International Code of Marketing of Breast-milk Substitutes (1981), the Global Strategy for Infant and Young Child Feeding and World Health Assembly resolution WHA54.3(2001)." Additionally the *Recommended Code of Practice 66, The Code of Hygienic Practice for Powdered Formulae for Infants and Young Children*, Section 2.2 states, "Where applicable, this document should be used in combination with the International Code of Marketing of Breast Milk Substitutes, relevant WHA resolutions and the WHO Global Strategy for Infant and Young Child Feeding."