

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
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ORGANIZATION



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Agenda Item 6

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**JOINT FAO/WHO FOOD STANDARDS PROGRAMME
CODEX COMMITTEE ON GENERAL PRINCIPLES
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DEFINITION FOR THE TERM “COMPETENT AUTHORITY”

Replies to CL 2009/36-GP

**(Chile, Colombia, Costa Rica, Dominican Republic, Egypt, Guatemala, Indonesia, Iran, Kenya,
Malaysia, Mexico, Philippines, United States)**

Chile

We consider it appropriate to include a general definition of the term in the Procedural Manual.

Our position is grounded in principles such as sovereignty and equality between the Party States. This is why each State should be the one to assign competence to its authorities, whether they are or not organically and/or functionally part of the State, or to delegate competence to them in a specific field.

In this way, as competence comes under the jurisdiction of the State, it cannot be challenged by anyone lacking the said power. Thus, all the powers of the bodies and entities within the State are defined by the State's legal system.

This is why we propose the following definition:

Competent Authority:

“The official body of the government or any authority or entity that the said official body has delegated or appointed to exercise the said competence.”

We do not think it necessary to define Competent body since it is included in the above proposal for a definition of Competent authority.

Colombia

Presently, in Section 2.2. of the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (CAC/GL 32-1999), the term is defined as follows:

“Competent authority means the official government agency having jurisdiction.”

The Code of Hygienic Practice for Meat (CAC/RCP 58-2005) in Section 3 defines the following terms:

“Competent authority. The official authority charged by the government with the control of meat hygiene, including setting and enforcing regulatory meat hygiene requirements.

Competent body. A body officially recognised and overseen by the competent authority to undertake specified meat hygiene activities.

Competent person. A person who has the training, knowledge, skills and ability to perform an assigned task, and who is subject to requirements specified by the competent authority.”

Country Position:

Competent authority means the official entity charged by the government to exercise the functions in the relevant matters.

Comments:

In our proposal for a definition, we prefer the term “entity” to the term “body” because it includes public and private organisations and because, in certain Codex member countries, a body may not be a legal entity, thus impeding it from undertaking some activities.

We do not consider it necessary to include the definition of “competent body” because it will cause confusion with the definition of competent authority.

Costa Rica

1. Definition of the term “Competent authority” to be included in the Procedural Manual

Costa Rica endorses the recommendation of the Executive Committee that the CCFL and CCNFSU harmonize the terms within their remit.

Concerning the notion “*Competent authority*”, Costa Rica proposes the following definition:

Competent authority: The official authority that has been legally empowered or authorised to check the compliance of the regulatory provisions applying to food.

2. On including “*Competent body*”

It is clear that there are differences between competent authority and competent body according to the terms used in Section 3 of the Code of Hygienic Practice for Meat (CAC/RCP 58-2005), even if they may coincide in some special cases. The difference lies in the fact that the competent body may be private but is authorised or accredited by a competent authority. Therefore, Costa Rica considers that the definition of “Competent body” should not be included because, in the event where the Competent Authority has officially delegated its powers, it shares the authority. Similarly, the said competent authority is authorised to withdraw the legal authority it has delegated, if it discovers a failure to fulfil obligations, for example.

Dominican Republic

A) After reviewing the proposal sent by the Secretariat of the Codex Alimentarius Commission, we have reached a consensus on the following proposal for a definition:

Competent authority:

Official legal person and/or entity charged by the government body with jurisdiction to undertake the activities of safety control, inspection, certification and other activities, throughout the food chain.

B) Concerning the merit of including the definition in the Procedural Manual:

We consider it appropriate to include the general definition of the term, which that receives the consensus, and is approved by the CCGP.

Egypt

Proposes the following definition:

“official authority or agency charged by the government...”

Guatemala

Guatemala considers that the definition of competent authority in CAC/GL 32-199 i.e., “(...) *means the official government agency having jurisdiction,*” refers to an entity or institution whereas the definition in CAC/RCP 58-2005, i.e., “*the official authority charged by the government with the control of meat hygiene (...)*” refers to the competent public officer who has been appointed by an institution or entity. Some functions cannot be delegated and the competent authority is the authorizing entity even if it appoints others to fulfil its functions.

The definition of competent authority applies to both cases. However, we do consider it important that there be only one definition for “competent authority” and that it be appropriate to every Codex standard and Code of Practice.

We suggest the following definition for competent authority:

Competent authority means the official governmental authority or entity having jurisdiction.

Indonesia

Indonesia is of the view that the general definition of “competent authority” should be included in the Codex Procedural Manual as this term has been used in a variety of Codex texts. There should not be any differentiation definition in Codex as now appears in two existing texts, i.e. CAC/GL 32-1999 and CAC/RCP 58-2005.

Indonesia has been used the term competent authority in several regulation and it shall be an official government agency. Therefore, we support the definition as included in CAC/GL 32-1999, namely: “Competent authority means the official government agency having jurisdiction.”

We also propose to define the term competent body by modifying the definition included in CAC/RCP 58-2005 to be as follows: Competent body: A body officially recognised and overseen by the competent authority to undertake specified meat hygiene activities.

Iran

The terms “official government agency” and “official authority charged by the government” are interchangeable and can be readily applied to exactly the same concept of “authority”. However, to allow for the subtle difference between the two and to derive a general expression we would recommend a combined definition such as:

“Competent authority means the official government agency or the official authority charged by the government, having jurisdiction, providing official assurances, setting and enforcing regulatory requirements”.

The Iran Committee recognizes a distinct category for the inclusion of a “competent body”, a definition covering those entities that may not be directly related or part of the government. A general definition could be:

“Competent body - A body officially recognized and overseen by the competent authority to undertake specified tasks and activities”.

The provision for a “competent person” should also be retained, with the definition as it currently stands.

Kenya

Kenya has two comments to make regarding ‘competent authority and competent body’

- Kenya refers the second definition of ‘competent Authority’ with some modifications as follows:- *‘the official authority charged by the government with the control, setting and enforcing regulatory requirements.*
- Kenya also supports the inclusion of the definition of ‘**competent body**’ in the procedural manual since most developing countries may not have inbuilt capabilities to undertake all the necessary assessment to ensure conformity.

Our proposed definition is as stated below:

Competent body- is a body officially recognised and overseen by the competent authority to undertake specified activities.

Malaysia

Malaysia feels that there is merit in including a general definition of the term “competent authority” in the Procedural Manual. We are of the view that the term should refer to government agencies.

In this regard, we wish to propose that the term “competent authority” as defined in the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (CAC/GL 32-1999) that is “Competent authority means the official government agency having jurisdiction”, be used.

Mexico

México considers that a definition included in the Procedural Manual has to be generic. Therefore, we endorse the definition in the Guidelines for Production, Processing, Labelling and Marketing of Organically Produced Foods (CAC/GL 32-1999):

“Competent authority means the official government agency having jurisdiction.”

Philippines

Proposal:

If merit is seen in including a general definition of the term in the procedural manual it should be wide enough to capture different ways of organization within Codex members.

The two existing definitions seem to have slightly different notions as to the nature of the authority. In one a competent authority is an “official government agency” and in the other an “official authority charged by the government”. It should be discussed whether there is merit in this difference or if a more general term could be used such as “official authority charged by or part of the government...”.

The Philippines would like to propose the following definitions of competent authority and competent body:

Competent authority	official authority charged by the government with jurisdiction over food control activities
Competent body	a body officially recognized and overseen by the competent authority to undertake specified food control activities

United States

General Comments

The United States believes that there should be a uniform Codex definition for the term “competent authority” because it would promote consistency and mitigate possible confusion. This definition should be included in the Codex Alimentarius Commission Procedural Manual and apply to all Codex texts.

The United States is aware of the increased use in variations of the term, competent authority, e.g., “competent national authority” and “national competent authority” and believes a standardized definition would encourage the use of a single term. The use of the same term, by all committees, would decrease the ambiguity that occurs when different terms are used to mean the same thing, or similar things. A standardized definition would make Codex documents more harmonious and reduce confusion among committees and countries regarding the interpretation of this term.

Furthermore, some countries may have difficulty in clearly determining a competent authority, and this may cause them to delay implementing Codex guidelines. A standardized definition could provide guidance in determining their competent authority, and thus enable them to make use of the Codex texts.

The United States also believes that Codex should develop a definition for “competent body” because the use of this term makes an important distinction. Competent authorities are increasing their use of competent bodies and this trend is likely to continue. Additionally, several Codex texts relating to the food import/export inspection and certification systems, use this term.

Specific comments

Competent Authority

The United States believes that a definition must recognize that a competent authority:

- is an official government agency or entity and not a private or non-governmental entity,
- has jurisdiction and statutory authority
- conducts specific activities (This part of the definition would define the scope of the activities over which the competent authority would have jurisdiction and would be unique each time the definition was used in a document.)

Thus, the United States favors the following definition:

Competent authority means the official government agency having jurisdiction.

The United States believes that Codex committees and standards should be able to specify in detail the activities that a “competent authority” might undertake with regard to a commodity or function. These more detailed definitions would be more specific in terms of the scope of that authority relative to a given standard.

Competent Body

The United States believes that the term “competent body” should be used to define a governmental agency, inter-governmental organization, or to some other entity, such as an independent third party to which the competent authority has delegated authority to oversee an activity or set of activities. The “competent body” administers the activity, but is still overseen by and accountable to the “competent authority.”

The United States believes the definition for “competent body” in the Code for Meat (CAC-RCP 58-2005), as “the body officially recognized and overseen by the competent authority to undertake specified meat hygiene activities” could be modified to make the definition less specific to meat products. A proposed definition for competent body could read:

Competent Body: a body officially recognized and overseen by a competent authority to undertake certain/specified activities.