



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

Twenty-eighth Session

Paris, France, 7-11 April 2014

REPORT OF THE FACILITATED DISCUSSION ON THE ROOT CAUSES OF STANDARDS HELD AT STEP 8 July 4, 2013, Rome, Italy

(Prepared by the European Union and the United States of America)

BACKGROUND

1. The 26th (2010) Session of the Codex Committee on General Principles (CCGP) established an electronic working group (eWG) with the following terms of reference (TOR).
 - (1) To prepare a discussion paper examining the issues surrounding paragraph 5 of the *Procedures for the Elaboration of Codex Standards and Related Texts* and in particular the second sentence of this paragraph.
 - (2) The discussion paper will describe the issues that result in draft standards being held by the Commission at Step 8, even though the subsidiary body responsible for drafting the standard had concluded its work taking into account the *Working Principles for Risk Analysis for Application in the Framework of the Codex Alimentarius*.
 - (3) It should be noted that the *Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to which Other Factors are taken into Account* are not subject to discussion and are not to be reopened.
 - (4) The discussion paper will suggest what recommendations CCGP may wish to consider at its 27th Session.
2. The committee accepted the offer of the delegations of Canada and the Netherlands to co-chair the electronic working group.
3. At its 27th (2012) Session¹, the CCGP considered the paper² prepared by the eWG and, in particular, discussed the following seven recommendations contained in the paper:
 - (1) A facilitated discussion or workshop to be held to allow Codex members a free and open discussion around current standards setting procedures, perceived failures and challenges.
 - (2) No work be undertaken to develop additional guidance for chairpersons in the Codex Procedural Manual. However, there is a need to provide training and support to chairpersons to enable them to apply the available guidance in a consistent manner in all Committees.
 - (3) New work be undertaken to revise the Codex Procedural Manual to ensure early identification of potential challenges to the elaboration of a standard either by revising the content of the Project Document as found in Part 2: Critical Review; Proposals to

¹ REP 12/GP, paragraphs 10-32.

² CX/GP 12/27/3

- Undertake New Work or to Revise a Standard or alternatively to revise the Criteria for the Establishment of Work Priorities. It should be noted that the principle of transparency needs to be incorporated into these discussions.
- (4) Use of “Concern Forms” be implemented, recognizing that this form as used by CCPR may need to be modified to be applicable in other Committees.
 - (5) Amend the elaboration procedures in the Codex Procedural Manual to amend paragraph 5 of the Procedures for the Elaboration of Codex Standards and Related Texts by deleting the final sentence, i.e. delete “The Commission may also decide that the standard be held at Step 8”.
 - (6) The Procedural Manual be revised to allow for the adoption of a standard on a regional basis should consensus not be achieved to adopt the standard as a global standard.
 - (7) The Rules of Procedure with respect to voting be reviewed with a view to providing for a vote if a standard has been held at step 8 for a specified number of years and to provide clarity regarding the second sentence of Rule XII.2.
4. Among other things, CCGP agreed to Recommendation 1, to hold a facilitated discussion group with the following TOR:
- The discussion group will be conducted in English, French and Spanish (this was later expanded to include Arabic, Chinese and Russian);
 - The discussion group will identify and consider the root causes for holding standards at Step 8. The purpose of the discussion is to enhance awareness and understanding of these issues amongst members; and,
 - The discussion group will prepare a summary report of the discussion, but will not make specific recommendations to CCGP.
5. The Committee agreed that the discussion group would be chaired by the European Union and the United States, and facilitated by the three Vice-Chairs of the Commission. The co-chairs and facilitators would be responsible for planning the facilitated discussion and it was determined to hold it in conjunction with the 36th (2013) Session of the Codex Alimentarius Commission to maximize participation from Members.
6. The facilitated discussion was held during the 36th Session of the Commission on July 4, 2013.

FACILITATED DISCUSSION ON THE ROOT CAUSES OF STANDARDS HELD AT STEP 8**Agenda Item 1: Welcome, Review Terms of Reference**

7. The Outline/Agenda for the Facilitated Discussion is given in Annex 1. The European Union and the United States welcomed attendees and reviewed the TORs for the discussion.

Agenda Item 2: Report from the Codex Committee on General Principles Electronic Working Group and Discussion on its findings (facilitated by Vice-Chairperson Samuel Godefroy)

8. Canada and the Netherlands opened their presentation by summarizing the history and background of standards held at Step 8 (see Background above). They noted that:
- the number of standards held at Step 8 for a lengthy period of time is small;
 - there are times when holding standards at Step 8 is useful to the Commission (e.g., to obtain additional scientific information or technical data);
 - the few situations in which a standard was held at Step 8 for a lengthy period of time were due to “other factors” and concerns with respect to WTO implications regarding trade (either permitting trade or conversely, being able to reject a product that does not meet requirements).
9. Following the presentation by the Netherlands and Canada, participants engaged in an open discussion on the root causes of standards held at Step 8. Interventions focused on values, science, consensus, decision-making, and the relationship of the World Trade Organization (WTO) to Codex and the WTO’s relevance to Codex standard-setting.
10. The following represent the views of the individual participants who made interventions during this section of the facilitated discussion.

On Values:

- It is difficult to reach consensus for issues related to values. This is particularly so when setting absolute figures for Maximum Residue Limits (MRL) for veterinary drugs since if the parties do not agree, there is no room for compromise. One way to move forward is to acknowledge national and/or regional differences.
- It is generally the values behind the position (which are often left unstated), rather than the position itself, that may lead to problems. When values are different between countries, reaching consensus becomes more difficult. Once the values come out, then they can be recognised, with an aim to better understand them. It is very challenging to convince someone to let go of their values.
- Codex's core values of collaboration, inclusiveness, consensus-building and transparency have to be respected. It is only if everybody respects each other's values that the legitimacy, credibility and acceptability of Codex standards can be ensured.
- Values are subjective and questioning scientific advice is a risk for Codex because as risk managers, we should rely on risk assessors. Who can we trust in the future if as risk managers we can't rely on the expert groups? If we question the outcomes of the scientific advice groups and have different interpretations by region, then the future of Codex is bleak.
- The lack of consensus occurs only in very few instances. However, the few cases of standards held at Step 8 have required a lot of energy and resources. This damages the credibility and legitimacy of Codex standards. Codex needs to ensure that all efforts are made to reach consensus. Codex is a risk management body – the managerial stage is not only based on risk assessment but also on other elements which the risk management phase must take into account.

- One of the major challenges that will continue to face Codex is to find ways and means of reaching consensus. We need to acknowledge the fact that there are differences in interests and expectations of member countries owing to diverse, social, economic and cultural backgrounds which often lie at the source of their values. Apart from the science, consideration should be given to the potential economic impact of draft standard(s).
- Codex is about bridging the gap between values, building trust and mutual respect and understanding.

On Science:

- Codex guarantees that standards are fair and objectively based on risk assessments, while the normative dimension based on values, culture, etc. is under the responsibility of governments.
- A Codex Committee should be able to question or reject the scientific advice given by a Codex scientific body. Doubts and scientific concerns on the risk assessment conducted by the scientific bodies should be addressed to avoid similar problems in future.
- Is it alright to not establish a standard? The case of ractopamine showed that the science was sound – one way out could have been to put the scientific evidence on the FAO website stating that the scientific evidence is sound but that internationally no agreement could be found to elaborate an international standard.
- Codex is science based and globally recognized. Codex is opening markets and benefitting consumers. Codex has to reflect to improve consensus building for the future 50 years.

On Consensus:

- Consensus is embedded in the way Codex works and we should keep on working on these tools. Questions on new work and problematic issues should be referred back to the Committee to find solutions.
- For numerous difficult texts with a potential to be divisive, Codex found common ground and solutions using helpful mechanisms and/or innovative approaches. A good example is the labelling of foods derived from modern biotechnology where a facilitated session found a way forward on long-standing issues.
- Note 161 is a very controversial issue in the Food Additives Committee. One side is saying that it undermines the spirit of Codex, while the other side is saying that it has been used as a way forward when the criteria set by Codex were not met. Some believe it is a way to respect countries' values. At CCFA this year industry banded together to try to help broker a solution with respect to use of the footnote as from some in industry's point of view it is preferable to have note 161 than no adoption of food additive standards at all.
- It is essential that consensus is achieved at the Committee level and only when consensus is reached at that level, should standards be sent to the CAC for adoption. If there are long and difficult discussions at the level of the CAC, standards should be sent back to the relevant committee for a technical discussion.
- In light of the growing significance of Codex standards, we need to have consensus when adopting standards. Some draft standards remain frozen at step 8 as certain problems exist regarding the decision-making process, namely voting by simple majority. As an international organisation with a mandate to establish global standards, Codex should have a mechanism to achieve broader consensus in decision-making. The delegation wanted to participate in any further such discussion.

On Decision-Making:

- Codex should consider how to deal with factors such as differences in requirements pertaining to economic or trade aspects which can often be more difficult than values. We need to identify if something is missing in the current decision making process – we need to question if we have what we need, e.g., voting, or if we are missing something.
- In an international organization which has the mandate to establish global standards - we should have a mechanism to achieve a broader decision making base. Codex should look at other methods to improve the decision-making process.
- Early identification of difficult cases is vital to avoid further problems that can damage Codex. A critical review of all new work is of major importance for topics where difficulties and different political backgrounds exist. A revision of the Procedural Manual should be considered.
- There should not be a “rush” to develop new standards. Lessons learned from many experiences we have in Codex show that any new work must meet criteria for new work and must be thoroughly discussed at the technical level to ensure consensus. This would avoid problems at a later stage.
- We need to look at the guiding principles when decisions are made – and we need to make sure we conform with our principles. How consistent are we at the committee level and at the Commission level? Are we using consistency in the application of science in our decision making? How do we refer to legitimate factors? Once you have checked these off, then you can look at caveats. Don’t like the use of the term “values” when we are really talking about trade ramifications. Outlier situations do not warrant a special mechanism.

On WTO Relevance:

- The representative of the WTO expressed concern that the SPS agreement might contribute to the blockage of adoption of Codex standards. The intent of the SPS Agreement was to encourage the development of harmonized worldwide standards and promote more use of these standards. Although there was a clear preference that WTO members base their food safety requirements on Codex standards, it was equally clear that there was no obligation to use the Codex standard if it would not achieve a government's desired level of health protection. Countries could instead base their measure on an appropriate risk assessment, which might differ from the risk assessment used by Codex, as long as they complied with the SPS rules, which also call for the risk management decision to be consistent with previous decisions. The underlying concern of the WTO rules was to ensure that SPS measures were not used for protecting industries from foreign competition, but only for protecting consumer health. The WTO representative stressed that the obligations of governments were the same whether a Codex standard existed or not.
- Codex has a huge impact as its standards are reference points under the WTO/SPS. We have every interest in keeping Codex as the leading food safety standard-setting body. In the very few cases we had where standards were adopted by a split vote, the credibility and importance of Codex was undermined. We need to ensure the early identification of problems in our work, as suggested in the outcomes of the eWG chaired by Canada and the Netherlands.
- Codex has to ask whether there would be a problem if Codex were not the reference point for the WTO agreement. There is a clear connection between Codex and WTO.
- Most of the time Codex gets it right. Consultation and consensus are embedded in our approach. Would we have the same problem in seeking consensus if Codex were not mentioned in the SPS agreement? Probably not.

Other:

- Improvement in communication would be beneficial. Everyone needs to work together on the basis of Codex values to resolve differences.
- Three key issues underlie Codex: values, science and process. Cases where decisions have been taken by vote were very disruptive. Values such as animal welfare have to be discussed and recognised.
- Codex should arbitrate in the interest of consumers, but consumers can arbitrate for themselves if they are well informed. Fair trade practices include labelling requirements so that consumers can inform themselves.
- In future it might be a good idea to collectively look ahead to avoid falling into recent pitfalls.
- From the perspective of a user of Codex: Global standards, based on science, help harmonize and facilitate trade. Codex is very valuable for a global industry.

Agenda Item 3: Developing Country Perspectives: How Countries Use and Benefit from Codex Standards (facilitated by Vice-Chairperson Awilo Ochieng Pernet)

11. Codex delegates from Brazil, Kenya and Thailand summarized how their countries use and benefit from Codex standards. Copies of their presentations are given in Annex 2.
12. Brazil presented an overview of its national food control system and noted it had just adopted the guidance presented in the newly adopted Codex *Principles and Guidelines for National Food Control Systems*. Government agencies in Brazil monitor Codex in order to update national legislation. Brazil updates its food legislation as new Codex standards are adopted. The use of Codex standards provides Brazil with the opportunity to expand markets and provide safe food. Other benefits recognized through the use of Codex standards include fostering partnerships, bringing credibility to national legislation, gaining experience in multilateral activities, and capacity building (giving as an example of a training opportunity, the chance to co-host Codex meetings). Brazil noted that adoption of Codex MRLs and the recognition of Codex by the World Trade Organization is important. It has been Brazil's experience that following the principle of establishing sound, science-based standards is the best way to achieve benefits.
13. Kenya has been a member of Codex since the 1970s and noted the advantages of Codex standards including their use as reference points. Kenya has adopted over 100 Codex standards as national standards, which has resulted in cost saving in terms of standards development and the facilitation of safe and fair trade in food. Participation in the Codex Committee on Pesticide Residues has allowed for the inclusion of Kenyan crops in the MRL-setting process. There are real advantages in the use of Codex standards in helping to protect consumers and to foster confidence in the safety of foods (noting how Kenya consumers always look for the Kenya standard Mark on products to ensure quality and safety). Kenya pointed out a number of challenges facing Codex and its standards-setting process including the long time frame for completion of standards, the lack of adequate data submitted to the CAC, the lack of a clear definition of consensus and the extent to which other factors are considered
14. Thailand opened its presentation by noting that in addition to the 50th Anniversary of Codex, 2013 marked the Golden Jubilee for the Thailand Codex Contact Point as Thailand joined Codex the year it was founded. Thailand reviewed its level of food exports and imports (\$30 billion exports and \$10 billion imports), shared its 'road map for food safety' and outlined its national food safety and quality strategies and programs. Thailand highlighted the importance of food safety for consumers which is achieved by the use of Good Agricultural Practices, Good Manufacturing Practices and Hazard Analysis at Critical Control Points, as well as a strong emphasis on consumer education. Participation in Codex is a key factor in the development of Thailand's national standards programs. The Thai Government has an organization in place to cover all Codex committees. The fact that Thailand has been a very active participant in Codex

can be seen from their initiation of work on standards to preparing data for submission to Joint Meeting on Pesticide Residues. Additionally, Thailand has co-hosted Codex committees and chaired the Ad-Hoc Intergovernmental Task Force on Quick Frozen Foods. Thailand reviewed the Codex standards it has adopted as national standards (including Codex General Principles of Food Hygiene, Principles for the Establishment and Application of Microbiological Criteria for Foods, Codex texts developed by the Codex Ad-Hoc Intergovernmental Task Force on Modern Biotechnology) as well as the many Codex standards it has used as a basis for its national standards. In cases where there are no Codex MRLs for minor crops, Thailand promulgates its own regulations.

Agenda Item 4: Tools and Guidance for Achieving Consensus (facilitated by Vice-Chairperson Professor S. Sefa-Dedeh)

15. Codex Chairperson Sanjay Dave made a presentation regarding the roles of chairs and delegates, focusing on three elements: (1) General Points, (2) Role of delegates and (3) Role of chairs in the consensus process. He informed participants that a handbook on “Building Common Ground for Negotiation, Mediation and Facilitation Methods – a Handbook for Delegates and Chairs” is under preparation for chairs and delegates.
16. Mr. Dave discussed the subject of “Tools and Guidance for Achieving Consensus.” Mr. Dave’s full presentation is provided in Annex 3. Key points noted by Chairperson Dave included the following:
 - Codex is a multi-lateral organization having multi-cultural, multi-linguistic and multi-economic dimensions which has grown very substantially over its history, from an original 30 member countries and 16 observer organizations to 185 countries, 1 member organization, and 220 observer organizations.
 - In such a diverse group with differing legal, political and administrative systems, Codex is bound to have some differences of opinion. However, the beauty of Codex is how well Codex has actually worked with only very few instances of situations where opinions have gone to extremes and adoption of a standard has been quite difficult.
 - We should remember the good things, one of which is that, on most occasions, country delegations have made compromises at some point or other; this demonstrates that Codex is truly a team with a sense of openness, transparency and co-operation.
 - We should remember that real consensus will come from equal competencies across the globe for an equal level of protection; it is when there are wide disparities that we have difficulties achieving consensus.
 - What is necessary is to understand and appreciate the concerns of each other with a view to narrowing the gaps.
 - Chairperson Dave noted that the delegates and chairs of committees are dependent on each other and said that each had their specific responsibilities.
 - The responsibilities of the Delegates include:
 - Making adequate preparation for presenting their views
 - Coming to the Codex meeting with a viewpoint and a position
 - Having an awareness (1) of the best science available on a subject and (2) an understanding of the Rules of Procedure and guidance as contained in the Procedural Manual so as to respect it in its entirety
 - Listening and trying to understand the concerns of others while presenting their own views
 - Identifying differences with the goal of finding a meeting point
 - Maintaining a certain level of flexibility.

- The responsibilities of Committee Chairpersons include:
 - Acquiring a complete understanding of the issues under discussion, including the scientific, political and economic aspects of the issues
 - Developing the skills of a good listener, a good note-taker (taking exhaustive notes on points of agreement and disagreement) and a good thinker
 - Being alert to the small signals
 - Being innovative in looking for and finding solutions to problems by reframing the issues if necessary
 - Understanding that for Codex standards to be internationally applicable and acceptable, they must have international consensus
 - Having a total familiarity and understanding of the guidance presented in the Procedural Manual and, in particular, the *Measures to Facilitate Consensus*
 - The ability to be ‘Mr. Cool’ even when the stakes are high; a chair cannot express frustration or exasperation because without a cool head, compromises cannot be reached
 - Striving to build a conducive climate for discussion
 - Remaining neutral –there is no room for cultural differences and biases against countries or continents
 - Avoiding ”must-win” situations
 - Being open to a variety of options for solving problems by putting the issues and solutions in an orderly fashion and looking for acceptable compromises
 - Looking for possible trade-offs, all the while respecting the science and procedures;
 - Understanding that situations can and will at times go wrong and the need to keep the focus on the issues
 - Using advisors as appropriate
 - Avoiding extensive plenary discussions when handling controversial issues. It is better to organize informal meetings or in-session working groups to work through problem
 - Making every effort to bring people along by showing genuine interest in finding a solution and retaining integrity and impartiality.
17. Chairperson Dave concluded by noting that consensus building is as simple as it is difficult. It is for the Chairs and Delegates to decide how they wish to approach it. There can be no win-lose situations. If a solution is found, we all win; if we do not find a solution, we all lose. Codex loses.
18. Participants thanked Mr. Dave for his excellent presentation.
19. The Facilitated Discussion concluded with a few general comments from participants.
- A delegate stressed the relationship between the first and second panels and noted that the ability to reach consensus involves risk assessment and other factors. Bridging between science and values can be difficult and can result in a bottleneck.
 - A delegate noted the importance of following guidance in the Codex Procedural Manual. Specific reference was also made to the Measures to Facilitate Consensus, particularly the provision stating that: “matters are not progressed from step to step until all relevant concerns are taken into account.” A good chair must understand the Procedural Manual and follow it consistently.

- A delegate also noted the importance of session evaluation forms and the importance of taking into consideration the constructive critical comments that are provided in these evaluations.
- A delegate noted the importance of sharing and understanding viewpoints of member countries and regions to foster consensus. The delegate agreed with the Chair regarding the need to take into account the Procedural Manual and heed ways to facilitate consensus. Committees should not forward issues to the CAC where consensus has not been achieved in the committee. Chairs need to use the Procedural Manual consistently; if possible chairs should attend different committees to gain a better understanding of how Codex committees operate.
- A delegate noted the importance of helping the chair to reach consensus and remarked that it is not easy to reach consensus when we have strong regional positions. The delegate stated that we all need to reflect on our ability to agree with other countries and noted it would be good to reach agreement across regions.

Agenda Item 5: Wrap Up (United States, European Union)

20. The session was closed by the Facilitated Discussion Session co-chairs, the European Union and the United States, with thanks both to the presenters and to the participants. The co-chairs noted that a summary report of the Facilitated Discussion will be submitted to the Codex Committee on General Principles.

**Provisional Outline for the Facilitated Discussion on
Root Causes of Standards Held at Step 8**

**in conjunction with the 36th Session of the Codex Alimentarius
Commission
FAO, Rome, Italy**

Thursday, 4 July 2013

- I. Welcome, Review Terms of Reference

- II. Report from the Codex Committee on General Principles Electronic Working Group chaired by the Netherlands and Canada on standards held at Step 8 – presented by the Netherlands and Canada

Discussion facilitated by Vice Chair Dr. Samuel Godefroy

- III. Developing Country Perspectives: How Countries Use and Benefit from Codex Standards – presented by Brazil, Kenya and Thailand

Discussion facilitated by Vice Chair Mrs. Awilo Ochieng Pernet

- IV. Tools and Guidance for Achieving Consensus – presented by CAC Chair Mr. Sanjay Dave

Discussion facilitated by Vice Chair Professor S. Sefa-Dedeh

- V. Wrap up (United States, European Union)

36th Session of the Codex Alimentarius Commission

CCGP Discussion Group on
the identification and consideration of the root causes for
holding standards at Step 8

BACKGROUND:

- 32nd Session (July 2009) of the CAC Noted that occasionally a number of texts had been retained at Step 8.
- An eWG Chaired by the Netherlands established to develop a discussion paper for consideration by the 26th Session of the CCGP.
- 26th Session of the CCGP considered the paper and subsequently agreed to establish an eWG, co-chaired by Canada and the Netherlands with the following mandate:

MANDATE OF THE eWG:

1. To prepare a discussion paper examining the issues surrounding paragraph 5 of the Procedures for the elaboration of Codex Standards and Related Texts and in particular the second sentence of this paragraph.
2. The discussion paper will describe the issues that result in draft standards being held by the commission at Step 8, even though the subsidiary body responsible for drafting the standard had concluded its work taking into account the Working Principles for Risk Analysis for Application in the Framework of the Codex Alimentarius.

MANDATE OF THE eWG:

3. It should be noted that the Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to which Other Factors are taken into Account are not subject to discussion and are not to be reopened.
4. The discussion paper will suggest what recommendations CCGP may wish to consider at its 27th Session.

CONCLUSIONS PRESENTED TO THE 27th SESSION CCGP:

- Number of standards held at Step 8 for inordinate length of time is very small (Paragraph 4).
- There are instances where holding a standard at Step 8 is a useful tool that can be employed by the Commission to take additional steps to achieve consensus (Paragraph 16).
- It appears the root causes for the Commission's inability to reach consensus in these instances are due to "other factors" and concerns with respect to WTO implications regarding trade (either permitting trade or conversely, ability to reject product that does not meet national requirements). (Paragraphs 43 and 49).

CONCLUSIONS PRESENTED TO THE 27th SESSION CCGP:

eWG proposed 7 recommendations:

- (1) A facilitated discussion or workshop be held to allow Codex members a free and open discussion around current standards setting procedures, perceived failures and challenges.
- (2) No work be undertaken to develop additional guidance for chairpersons in the Codex Procedural Manual. However, there is a need to provide training and support to chairpersons to enable them to apply the available guidance in a consistent manner in all Committees.

CONCLUSIONS PRESENTED TO THE 27th SESSION CCGP:

(3) New work be undertaken to revise the Codex Procedural Manual to ensure early identification of potential challenges to the elaboration of a standard either by revising the content of the Project Document as found in Part 2: Critical Review; Proposals to Undertake New Work or to Revise a Standard or alternatively to revise the Criteria for the Establishment of Work Priorities. It should be noted that the principle of transparency needs to be incorporated into these discussions.

(4) Use of “Concern Forms” be implemented, recognizing that this form as used by CCPR may need to be modified to be applicable in other Committees.

CONCLUSIONS PRESENTED TO THE 27th SESSION CCGP:

(5) Amend the elaboration procedures in the Codex Procedural Manual to amend paragraph 5 of the Procedures for the Elaboration of Codex Standards and Related Texts by deleting the final sentence, i.e. delete “The Commission may also decide that the standard be held at Step 8”.

(6) The Procedural Manual be revised to allow for the adoption of a standard on a regional basis should consensus not be achieved to adopt the standard as a global standard.

(7) The Rules of Procedure with respect to voting be reviewed with a view to providing for a vote if a standard has been held at step 8 for a specified number of years and to provide clarity regarding the second sentence of Rule XII.2.

CONCLUSIONS PRESENTED TO THE 27th SESSION CCGP:

- Recommendation 1 was among those endorsed by 27th CCGP - “A facilitated discussion or workshop be held to allow Codex members a free and open discussion around current standards setting procedures, perceived failures and challenges.”
- The CCGP agreed that the discussion group would be chaired by the European Union and the United States, facilitated by the three Vice-Chairs of the Commission, and planned by the co-chairs and facilitators, including preparation of documents to be distributed in advance of the meeting.

CONCLUSIONS PRESENTED TO THE 27th SESSION CCGP:

Terms of reference for the discussion group:

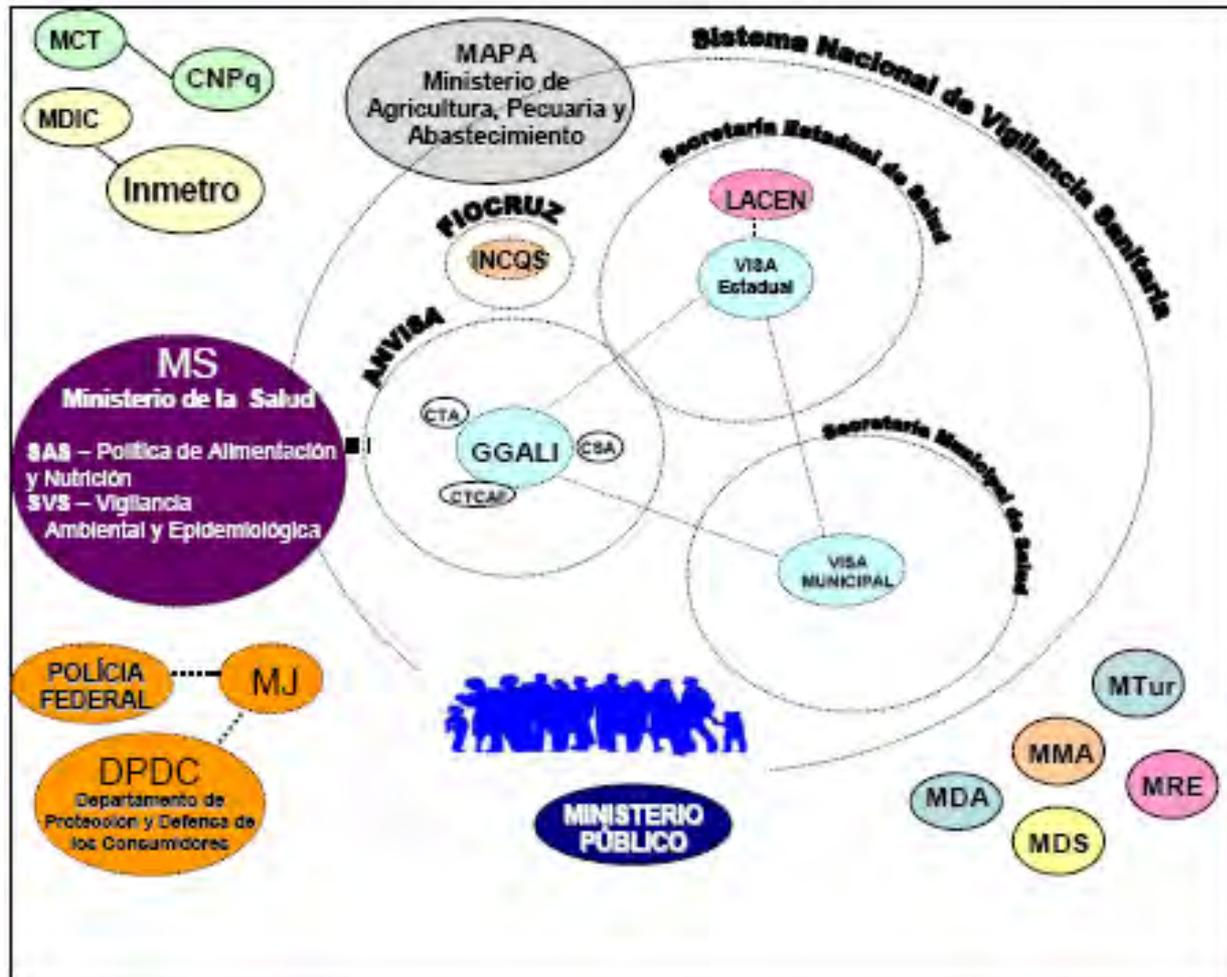
- The discussion group will be conducted in English, French and Spanish
- The discussion group will identify and consider the root causes for holding standards at Step 8. The purpose of the discussion is to enhance awareness and understanding of these issues amongst members.
- The discussion group will prepare a summary report of the discussion, but will not make specific recommendations to the CCGP

Developing Countries Perspective: How Countries Use and Benefit from Codex Standards

Brazil's Perspective

Facilitated Discussion on Root Causes of
Standards Held at Step 8

An overview of the Brazilian National Food System





Brazilian Codex Committee - CCAB

- ✓ Created in 1980;
- ✓ 14 Members: Government, Industry, Consumers, Academy;
- ✓ Forum for discussions and formulation of the national positions and responses to Codex proposals and policies;
- ✓ Advisory Committee to Conmetro – National Council of Metrology, Standardization and Industrial Quality;
- ✓ Mirror of the Codex Alimentarius Commission.



Why Codex is important?

To Consumers

- ✓ Safe food
- ✓ Food information

To the Government

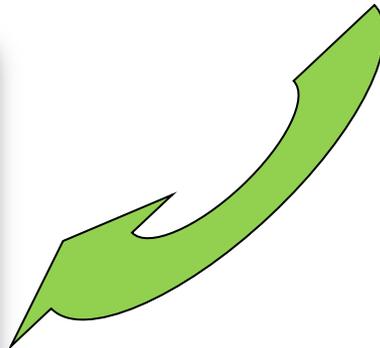
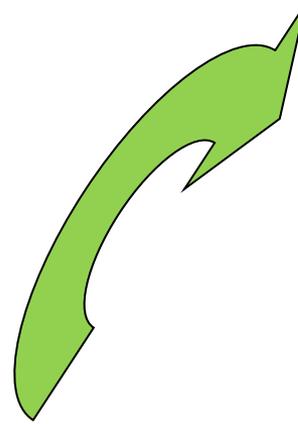
- ✓ Protection of national interests and increase trade
- ✓ Consumer protection and updating of food legislation

To Industry/suppliers

- ✓ Fair competition rules and removal of Non-tariff Barriers to trade
- ✓ Expansion of markets
- ✓ Provide safe food

Benefits

- ✓ Dissemination of products from Brazil
- ✓ Strengthening and technical support in defense of the Brazilian position
- ✓ Experience in multilateral negotiations
- ✓ Contacts with authorities in other countries
- ✓ Opportunities for international partnerships
- ✓ Credibility



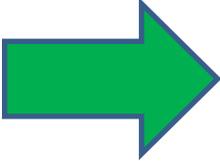
FAO/WHO Food Standards

CODEX alimentarius



- ✓ Knowledge of the forefront of advances in science and food safety regulation
- ✓ Regulatory harmonization
- ✓ Compliance to international requirements
- ✓ Trends of future requirements

Important benefits

- ✓ Capacity building;
 - ✓ In the lack of expertise;
 - ✓ In the lack of financial resources to develop regulations;
 - ✓ Use of MRL;
 - ✓ SPS/WTO.
- 
- Importance of
FAO/WHO advisor
group funding**

How to achieve benefits?



1 General Principle



Sound science based documents



AVOID Standards held at step 8

USEFULNESS AND BENEFITS FROM CODEX FOOD STANDARDS -KENYA

Codex Alimentarius Commission,
FAO ,ROME
4th July 2013.

KE_NATIONAL CODEX CONTACT POINT.
MRSALICE AKOTH OKELO ONYANGO

Advantages of codex standards

- Act as reference points when we are developing East Africa Community standards[EAC].
- Kenya has adopted over **100 codex** standards as our national standards.
- Cost saving on national standards development.
- Facilitate safe and fair trade in food



Advantages cont'd

- Inclusion of certain Kenya crops to minor crops .
- An opportunity to participate in codex scientific advise committee [JECFA] and as a vice chair of physical working group on Pesticide Residue in Food.

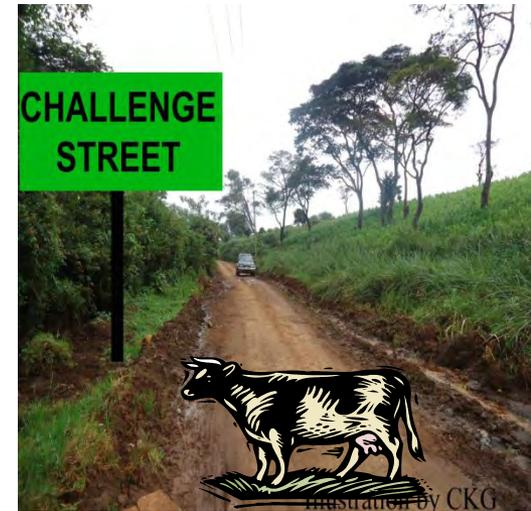
Advantages of codex stds (contd)

- Consumer protection and confidence
- Dispute resolution
- Confidence-Kenya consumers always look for standard Mark on the products to ensure quality and safety



Challenges of codex standards

- Time frame for completion is long
- Some standards are expensive to implement.
- Inadequate data submitted to CAC
- The extent to which other factors are considered such as cultural practices and other drivers of change.
- Lack of clear definition of “consensus”



Challenges of codex stds (contd)

- Political and economic influences
- Some member countries disregard codex standards in preference of their national legislation.
- Codex referral of standards to regional bodies and committees when not considered appropriate hampers standard development.



THANK YOU



Photo by Alice Onyango



Thailand Perspectives: How Countries Use and Benefit from Codex Standards

Mr. Pisan Pongsapitch

Director, Office of Standard Development

National Bureau of Agricultural Commodity and Food Standards

Ministry of Agriculture and Cooperatives, Thailand



Presentation at the Facilitated Discussion on the root causes for holding standards at Step 8, 4 July 2013, FAO, Rome



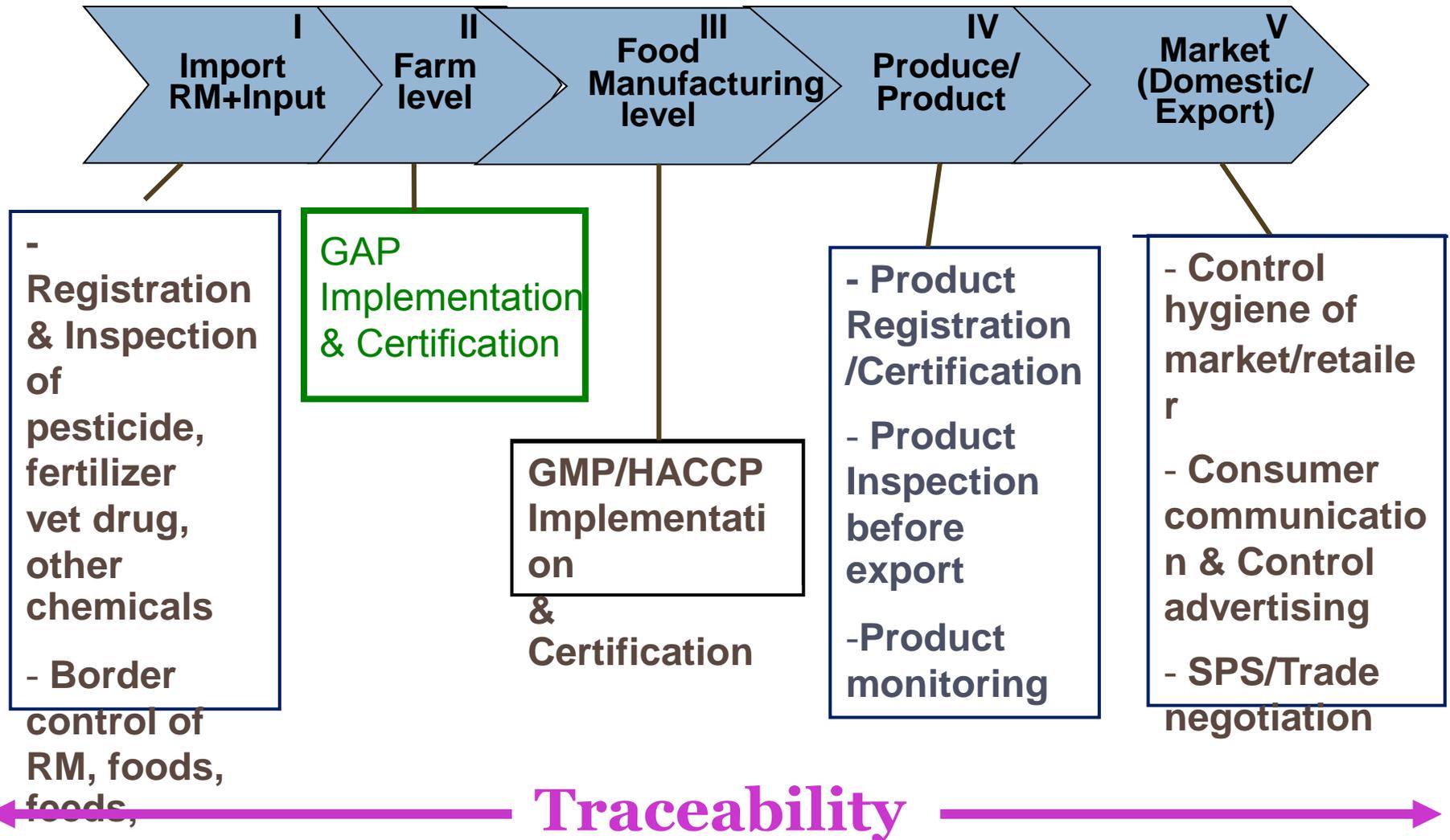
Thailand Is A Kitchen of the World



Thailand produces food for domestic consumption and for international trade.

Road Map of Food safety

Food safety standards





Thailand National Food Strategy : present



Theme 1 : Food Security

Principle : Ensuring a sustainable food security and effective management of food production resources by active stakeholders participation



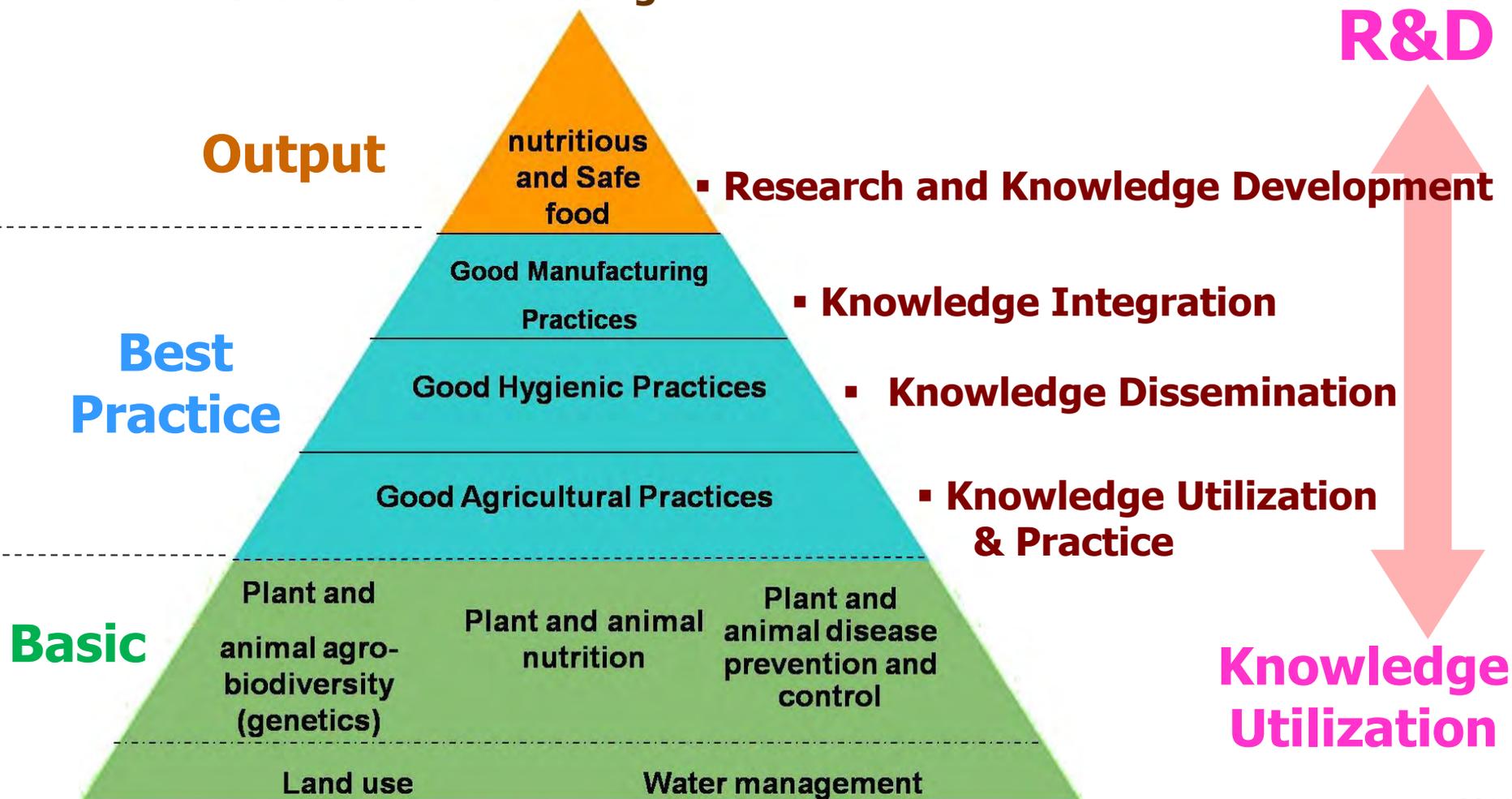
Theme 2 : Food Quality and Safety

Principle : Ensuring high quality and safe food to protect consumer health and to facilitate domestic/international trade



- Establishment of harmonized standards
- Strengthening of food quality and safety assurance systems
- Trading & marketing promotion

Principle : R&D and knowledge utilization through engaging stakeholders in sustainable and effective use of food production resources along the food chain and also strengthening desirable consumption behavior for well-being



Food Safety and Quality: Key Factors



- National Standard Development
- Standards implementation/enforcement
- Application of risk analysis principles
- Education and communication
(governments, academia, industries,
farmers, consumers)
- Active participation in Codex and other
international meetings





Thailand and Codex



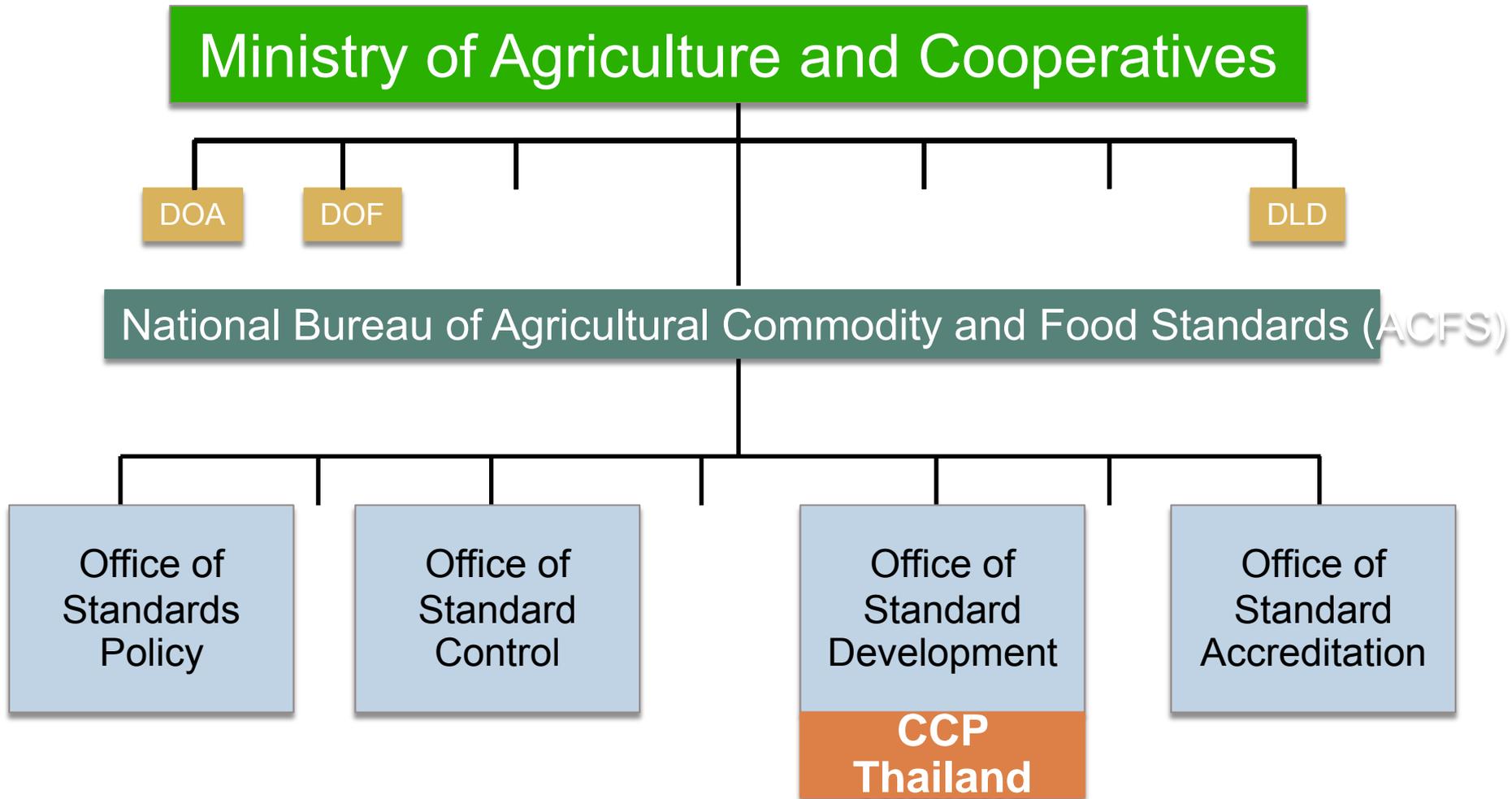
- Codex established since 1963
 - ▣ This year is the Codex Golden Jubilee Year

- Thailand is one of 30 countries that became the member of Codex since the establishment in 1963

- Thailand Codex Contact Point also celebrated Codex Golden Jubilee in Thailand on 28 2013



Codex Contact Point of Thailand



Working Process for Codex Standard Setting of Thai CCP

National Agricultural Standard Committee

→ Governing body and policy setting

Sub-committee on Policy and General Principles

4 Sub-Committees on Commodity Standards

10 Sub-Committees on General Subject Standards

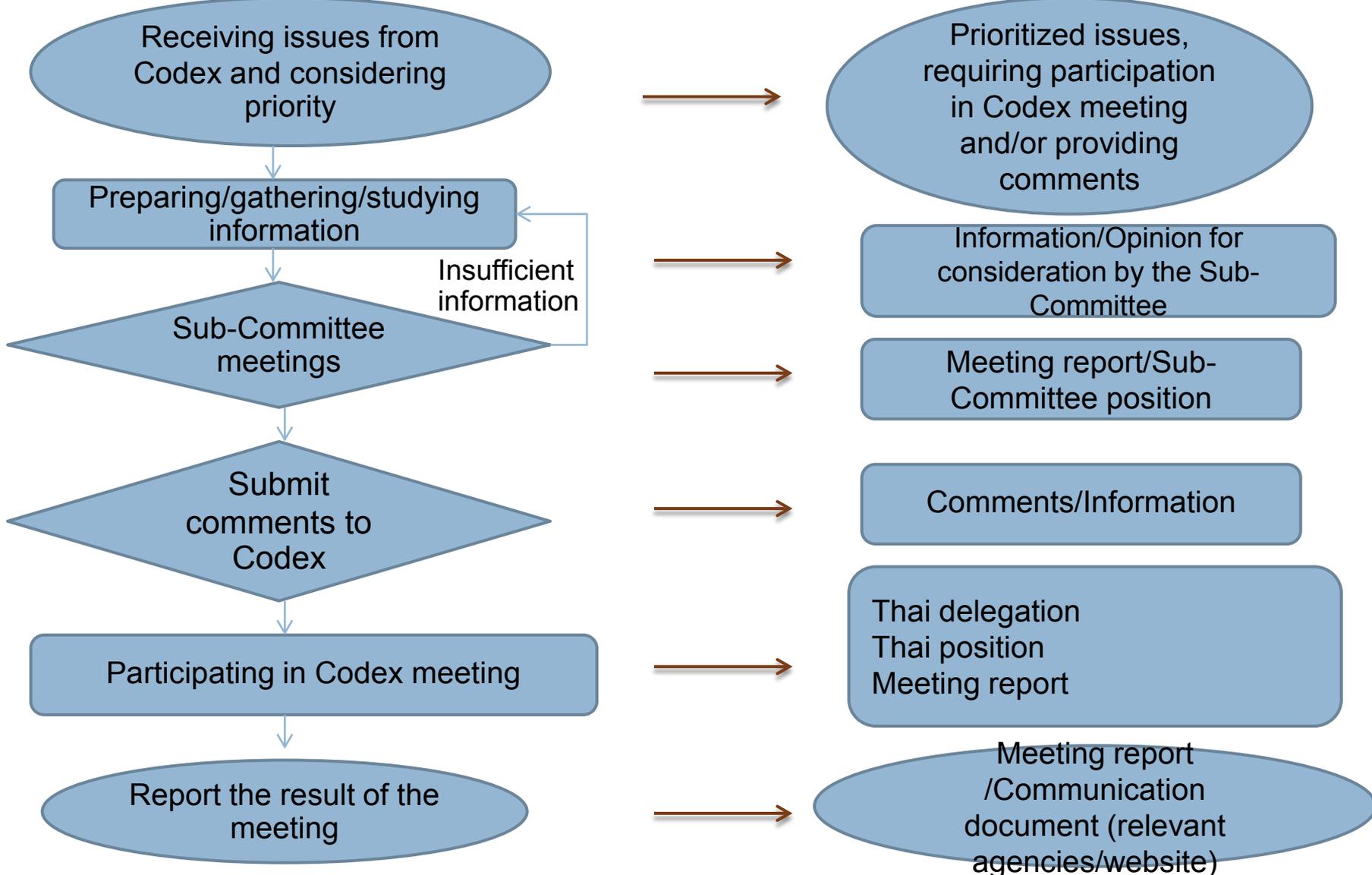
Members of Sub-Committees

- Governments (Agriculture, Health, Trade, Consumer Protection)
- Academics/Experts
- Industries
- CCP Thailand as Secretariat

Thailand Working Process for Consideration of Codex Draft Standard

Processes/contents

Outcomes



Participation in Codex Standard Setting

- Provide written comments
- Participate and providing comments in Commission/Committee/Task Force
- Participate in working group (physical/electronic)
- Prepare proposal for new work/draft standard and submitting to Codex
- Hosting Committee/ Task Force/ Physical working group meetings
- Adopt/Adapt Codex standards as national standards



Codex Standards Initiated by Thailand

□ Fresh Fruits and Vegetables

- Standard for Rambutan
- Standard for Durian (Draft)

□ Processed Fruits and Vegetables

- Standard for Canned Bamboo shoots
- Asian Regional Standard for Chili sauce
- Method of analysis for fat content in coconut milk

□ Fats and Oils

- Amendment of Standard for Rice Bran Oil

□ Fish and Fishery Products

- Standard for Fish Sauce & Code of Practice for Fish Sauce (draft)
- Nitrogen factor of tilapia in Standard for Quick Frozen Fish Sticks (Fish Fingers)

□ Pesticide Residues

- Data submitted for the establishment of 30 MRLs
- Co-chair of the CCPR Working Group on Minor Uses and Specialty Crops



Thailand as a host country for Codex meetings

- 34th Codex Committee on Food Hygiene in 2001
- 28th CCNSFDU in 2006
- 20th CCFICS in 2013
- 7th, 11th, and 12th CCASIA in 1990, 1997, 1999
- **Chaired the Ad hoc Codex Intergovernmental Task Force on the Processing and Handling of Quick Frozen Foods in 2008**



Adoption of Codex Standards as National Standards

- Thailand has adopted Codex Standards as national standards e.g.
 - ▣ Codex General Principles of Food Hygiene
 - ▣ Principles for the Establishment and Application of Microbiological Criteria for Foods
 - ▣ Principles for the Risk Analysis of Foods Derived from Modern Biotechnology
 - ▣ Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants



Adoption of Codex Standards as National Standards

- Thailand has adapted Codex Standards to national standards, such as
 - Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods
 - Principles for Traceability / Product Tracing as a Tool Within a Food Inspection and Certification System
 - Code of Practice for Fish and Fishery Products
 - Code of Hygienic Practice for Fresh Fruits and Vegetables



Summary

- Thailand was a member of Codex since establishment in 1963
- Active participation in Codex working processes at global, regional and national level is an exceptional learning experience
- Adoption and implementation of Codex standards have been beneficial to consumer protection and enhancement of domestic and international food trades

Let Celebrate Codex Golden Jubilee together



Thanks for your attention...with a rose from Rome

ANNEX 3

PRESENTATION BY CODEX CHAIRPERSON SANJAY DAVE**Tools and Guidance for Achieving Consensus in the
Framework of Codex Alimentarius**
Sanjay Dave, Chairperson, Codex Alimentarius Commission

I would like to thank the US and EU delegations for having invited me to speak about the tools and guidance for achieving consensus in the framework of Codex Alimentarius at this important Facilitated Session on the Root Causes of Standards held at Step 8, an important work given by the CCGP. I was expected to make my presentation on the basis of a hand-book, titled "Building Common Ground: Negotiation, Mediation and Facilitation Methods (A Handbook for Codex Delegates and Chairs)". However, since it is under preparation, I will present my views on the basis of what I have learnt over the past several years. In order that I present my views appropriately, I have structured my talk into three parts. First, some general points, then, the Role of Delegates and finally the Role of Chairs.

GENERAL POINTS

Codex Alimentarius is a multi-lateral organization having multi-cultural and multi-economic and multi-linguistic dimensions. In 1963, there were 30 countries and 16 observers organizations came together to attend the 1st Session of the CAC. Now, there are 185 countries plus European Union and 220 observer organizations as its members (97% of world population is now a part of the Codex process). When the first session was held 50 years ago, there were 120 participants and now participation has grown to 700-800 delegates. The number of food products in different forms that are available in the market is close to 25,000. There are several standards developed by Codex and several issues relating to food safety that are considered by the Codex every year. These are Food Additives, Food Contaminants, Food Hygiene, Residue of Pesticides and Veterinary Drugs, Method of Analysis & Sampling, Labeling and a host of other food safety related subjects.

In such a diverse group with differing legal, political and administration system we are bound to have some difference of opinion. Even in a family of 3-5 persons, differences do occur. In a Parliamentary system of a country, there are always differences of opinion and differences in values and interests. Who knows it better than India? Yet, the beauty of Codex is that over the past 50 years, we have had very very few instances where these opinions went to extremes. This is one of the major achievements of Codex. This success has been on account of the highest level of co-operation and inclusiveness amongst all the members.

We should remember the good things, which is that on most occasions, country delegations have made compromises at some point or the other. This shows that Codex is truly a team work with sense of openness, transparency and co-operation supporting each other. We should also remember that real consensus will come from equal competencies across the globe for an equal level of protection. Wide disparities result in a lack of consensus.

In this respect, there will always be situations that call for a higher level of engagement on the part of delegates and intervention on the part of the Chair. What is necessary is to understand and appreciate concerns of each other in the Codex family with a view to narrowing the gaps. The Delegates and Chairs cannot do without the other. They are like two complementary wheels of the bicycle. There will be tools and guidance both for delegates as well as the Chairs, which will be addressed in the said hand-book. Let me first summarize the role of the delegates.

ROLE OF THE DELEGATES

The delegates that travel all the way to participate in Codex session make adequate preparations to present their views. They also promote their view point, and when such promotions take place, the delegates tend to make their view point as a position. It is at this stage that it is important to also appreciate is concerns of others while presenting their own views. It is, particularly, helpful in the Codex step process to analyze and assess each other's interest and walk through the issues to identify differences and finding a meeting point. When the opinions are at their extremes, it is important to consider those points where there is flexibility to take a step towards the equator. A certain level of flexibility will be required on both sides. While doing so, the following steps are noteworthy:

- a) Be aware of the best science available on the subject. This is because Codex standards are based on sound science and risk assessment carried out by the expert bodies of FAO and WHO.
- b) Be clear about the contents of the Procedural Manual to which every member is a signatory. Thus, Procedural Manual has to be respected in its entirety.
- c) To know the possible trade-offs or points for reciprocity so that delegates find opportunities for flexibility.

I quote from the draft outline prepared by the FAO Consultant for the hand-book. The use of the five vowels of the English alphabet – a, e, i, o, u. It has been mentioned that **a** and **e** which mean Attack and Evade are used when there is a competitive spirit. However, **i**, **o** and **u** which mean Inform, Open and Unite are used when there is a collaborative spirit. This is an excellent quote and all delegates must bear this in mind. If we work with a competitive spirit, the basic principles and values of Codex which are collaboration, co-operation and inclusiveness will be floored. Needless to say, this requires a certain amount of patience and understanding and also to build capacity in this direction.

ROLE OF THE CHAIRS

Several people sitting here are Chairs in some or the other activities of Codex. They are Chairs in their home country within their institutional area of work; they are Chairs of Codex committees or working groups. Some people who are present here have also been Chair or Vice Chair of the Commission. With my little experience in Codex during which I have also been a Vice-Chair and Chair for the last 5 years, I have realized that the biggest tools for a Chair to bring about consensus are:

- 1) First, to acquire complete knowledge or information about the issue at hand. This includes scientific knowledge, political scenario as well as the trade or economic aspects.
- 2) Second, the Chair has to read, read and read. He or she has to be a “Good Listener” and also a “Good Stenographer” This means that he or she must make exhaustive notes not only by reading and also by listening. It is important to document the points of agreement and also list out points of disagreement and proceed forward by an elimination process. His or her antenna must be able to catch the small signals.
- 3) Then, the Chair has to be a “Good Thinker” and be innovative in analysis for finding a solution. One could consider reframing the issues as well.

- 4) Next, the Chair needs to clearly understand that for Codex standards to be internationally applicable, these should also be internationally acceptable within the remit of Codex Procedures which has laid down very clear principles and guidelines on different pages of the book. The seven points under “*Measures to Facilitate Consensus*” given on the last page of the Procedural Manual are extremely important for facilitating consensus, though guidance on the ‘process’ that should be followed to facilitate consensus in respect of these seven points is not provided. The Chair should ensure that these have been addressed when there are difficult situations. Even the Working Principles of Risk Analysis, in particular, the Risk Management process, supported by the Committee specific texts are useful tools for concluding decisions by Codex. In addition, the Chair (and also the delegates) would need to understand the provisions with regard to the “*Statement of Principle concerning the Role of Science in the Codex decision-making process and the extent to which other factors are taken into account*”.
- 5) Even when the stakes are high during discussions, the Chair has to be “Mr. Cool” because this is extremely important to build a conducive climate during the discussion. He or she cannot afford to express dis-satisfaction or frustration or any other nature of expression at any stage of the discussion. When emotions reign supreme, the delegations are not likely to reveal their underlying needs and hold on to their positions by providing justification why they are right. It is here that the Chair has to be Mr Cool to build a collaborative climate. Remember, without being cool, no compromises can be made; and without compromises, no consensus can be achieved.

In order to find solutions, therefore, he has to consider a variety of options, be they technical, economic or procedural. And, it is important to put these issues and solutions in an orderly fashion and look for possible acceptable compromises. The Chair should look for possible trade-offs while respecting the science and procedure.

There will be times, when discussions could go hay-wire. It is important to keep focus on the issues. It is useful to have advisors for solutions. Such advisors can be Vice-Chairs in case of Commission, and / or FOTC identified by the Chair, the Committee Chairs and Co-Chairs as well as colleagues in the Codex Secretariat on matters relating to historical background in respect of similar issues or in matters of procedure and their interpretation. Just two days ago (02 July 2013), while we were discussing the document on supplementary foods, you remember how well the Chair of the Nutrition Committee discussed and explained options to some of our Codex members and found a solution acceptable to all in the region. Sometimes, the role of a third person in resolving these issues is very helpful. The Chair also has to assess when and how to facilitate negotiation; and when and how to mediate to bring about consensus.

One of the important things to remember is to avoid extensive plenary discussions; while handling controversial issues, it is better organize informal meetings or an in-session Working Group. Sometimes, writing the text on the screen (like we did in case of the new Codex Strategic Plan) facilitates consensus. The Chair could work with the delegates to prioritize options and consider fall-back positions. As noted by the delegation of Malaysia today, however, it is essential to settle the scientific and technical issues at the Committee level.

An important quality for building consensus is the ability to carry the people along with him or her. This can come only if delegates will perceive genuine interest of the Chair for finding solutions. This requires complete honesty and neutrality on the part of the chair. No consensus can be achieved if there is even an iota of doubt about the Chair’s integrity. Chair is the most closely watched person. In India, within the administrative system every officer’s integrity has to be

mentioned in the annual confidential report by the superior. The superior has to write “integrity beyond doubt” but if there is even a slight doubt, the superior has to leave that column blank. It will be filled up only after establishing the facts about the integrity. There should also be no room for remarks on cultural or continental differences. I have had one opportunity to witness this about eight years ago when a Codex Committee Chair did not like people from a particular continent. Such a person can never be trusted.

I hope some of these points will be useful for the hand-book. I would like to conclude by saying that consensus building is as simple as it can be difficult. It is for the Chair and the Delegates to decide how they wish to approach it. Remember, in Codex or even in life, there should be no win-lose situation. If we find a solution – we all win; if we do not find a solution – we all lose, Codex loses.

Thank you very much for your patient hearing.