



JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON RESIDUES OF VETERINARY DRUGS IN FOODS

Twentieth Session

San Juan, Puerto Rico, 7 – 11 May 2012

Matters referred by the Codex Alimentarius Commission and Other Codex Committees and Task Forces (CX/RVDF 12/20/2)

Brazil, Costa Rica and Uruguay comments

Specific Comments about standards and related texts held at the Commission at step 8

1. Codex needs to base its decisions on sound science, in view of the status of Codex standards under the WTO SPS Agreement, as a reference body and should not hold at step 8 draft standards based on factors outside the mandate of Codex. Factors outside the mandate of Codex should not influence the risk management to achieve consensus and therefore should not hold standards at step 8.

2. Diversification of national legislation has created impediments to international trade but recognized that some legitimate concerns of governments when establishing their national legislation are not generally applicable or relevant worldwide and confusion should be avoided between justification of national measures under the SPS Agreement and their validity at the international level.

3. *“While recognizing the dual purposes of the Codex Alimentarius are protecting the health of consumers and ensuring fair practices in the food trade, Codex decisions and recommendations on risk management should have as their primary objective the protection of the health of consumers. Unjustified differences in the level of consumer health protection to address similar risks in different situations without scientific basis should be avoided”.* In accordance to Codex Procedural Manual: ***The decisions should be based on risk assessment, and taking into account, where appropriate, other legitimate factors relevant for the HEALTH protection of consumers and for the promotion of fair practices in food trade.***

4. Regarding to the Codex Procedural Manual *“only those other factors which can be accepted on a worldwide basis, or on a regional basis in the case of regional standards and related texts, should be taken into account in the framework of Codex. The integration of other legitimate factors in risk management should not create unjustified barriers to trade”.*

5. *“The food standards, guidelines and other recommendations of Codex Alimentarius shall be based on the principle of sound scientific analysis and evidence, involving a thorough review of all relevant information, in order that the standards assure the quality and safety of the food supply”.*

6. *“The Procedural Manual of the Codex Alimentarius Commission describes the legal foundations and practical functioning of the Commission and its subsidiary bodies. Knowledge of the contents of this Manual is essential for Codex members and observers to participate effectively in the work of the Commission”.* Non-compliance with the Procedural Manual undertakes Codex decisions.

7. Although the members of Codex have range of social, economic, political and cultural situations, these differences should not block the approval of new standards nor lead to the rejection of internationally accepted scientific research.

8. The delay in approving a standard that has followed each step of the Codex process and has received approval from the scientific advisory body of Codex, sets a precedent that:

- jeopardizes the role of the FAO/WHO group of experts that supports Codex decisions;
- discourages the participation of Codex members, particularly of developing countries, in Codex activities, as well as the development of studies and data provided by the countries and by the sponsors;
- represents a risk for the role of Codex as an international standard-setting body; and
- Outrages against, weakens, and debilitates the multilateralism system of the world.

9. It should be recalled that, once a *Codex* standard is adopted, every country still maintains the right to adopt any sanitary measures, as long as they are based on sound scientific justification. According to Art 3.3 of the SPS Agreement, “*Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5*”.

10. In addition as pointed out by many countries in document G/SPS/GEN/1143/Rev.2 of 29 March 2012¹, Members should, in determining the appropriate level of protection, take into account of the objective of minimizing the negative trade effects. The increase in the number of SPS measures that have inadequate scientific justification is a point of concern readily raised by many Members in the SPS Committee and other contexts. These measures often unduly restrict trade and appear to be associated with objectives that are not deemed as legitimate under international trade rules.

11. Therefore not to hold standards at step 8, we should reinforce the imperious need to follow the sound scientific recommendations of the Codex experts groups like JECFA, JMPR and JEMRA. Codex decisions should not take into account issues that jeopardize its credibility instead of sound science and Codex Procedural Manual should be strictly followed.

¹ <http://docsonline.wto.org:80/DDFDocuments/t/G/SPS/GEN1143R2.doc>