

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS

Twenty-seventh Session

PROPOSED DRAFT CONSOLIDATED CODEX GUIDELINES RELATED TO EQUIVALENCE

Overview and History of the Scope

(Prepared by New Zealand (Chair) and Kenya (co-Chair) of the Electronic Working Group)

Summary of Previous work relating to the equivalence of technical regulation (food trade related technical measures falling under the WTO/TBT Agreement definitions)

1. The Codex Alimentarius, or “Food Code”, is a collection of international standards, guidelines and codes of practice to protect the health of consumers and ensure fair practices in the food trade. Codex standards and guidance cover both food safety (sanitary) and technical standards (e.g. labelling, nutrition, food fraud, composition, organics, identity standards etc) as they relate to fair practices in the food trade.
2. The early Codex text that mentions equivalence along with other matters related to food inspection and certification systems (CXG 20-1995, CXG 27,1997 and CXG 34-1999) provides definitions, principles, and general guidance, including on the development of equivalence agreements. All of these texts cover both the protection of the health of consumers and ensuring fair practices in the food trade.
3. Codex guidance recognizes there are a variety of types and scopes of equivalence assessments, noting equivalence may not be appropriate for all technical regulations, just as it is not appropriate for all SPS standards.
4. In the late 1990s CCFICS had active discussions around the need for additional guidance more specifically on the “judgement of equivalence”. This discussion considered separating out the judgement of the equivalence of sanitary measures from the judgement of the equivalence of technical measures and both pieces of work were initiated to complement the more generic guidance contained within the existing standards that did not differentiate the two processes (see the analysis in the discussion document hyperlinked in para 12 below).
5. In 1999 CAC23 (Para 217 Alinorm 99/37) agreed with the recommendation of CCEXEC46 ‘that the Committee (CCFICS) should proceed to develop guidance on the judgement of equivalence of systems for inspections and certification in relation to technical regulations other than sanitary measures in parallel with food safety issues’.
6. While a great deal of work was subsequently done by CCFICS on both of the approved new work proposals, ultimately the Committee was only able to advance the Guidelines on the Judgement of Sanitary Measures associated with Food Inspection and Certification Systems at that time (again see the analysis in the discussion document hyperlinked in para 12 below).
7. When New Zealand’s initial system equivalence/comparability discussion paper was considered by CCFICS22 as Agenda Item 8 it predominantly focused on sanitary system equivalence. However, the Committee discussed the relevance of the proposal in light of the recently adopted National Food Control System (NFCS) guidance CXG 82-2013. This provides guidance covering the full spectrum of NFCSs and the potential relevance of the concept of equivalence to both sanitary and technical measures.
8. “The Committee noted that the development of guidance in this area of system equivalence should address the dual mandate of Codex, the term equivalence should be used instead of “comparability”, and this work

will assist trade facilitation” (para 51 REP16_FICSe). CCFICS22 established an “electronic working group ... lead by New Zealand with the United States of America and Chile acting as co-chairs, working in English and Spanish and open to all Codex members and observers, to revise the discussion paper and the project document taking into account the above discussion. Chile offered to facilitate the Spanish translations.”

9. The below referenced paragraphs (see hyperlink in paragraph 12 to original document) are directly from the discussion paper CX/FICS 17/23/6 that was produced by that working group and discussed at CCFICS23 and ultimately led to the new work proposal approved by CAC39. The purpose and scope of the approved project document stated: *“It is intended to cover situations where it can be reasonably expected that the national food control system (NFCS) of the exporting country will, on an ongoing basis, reliably deliver food that meets similar overall human health, food suitability and technical outcomes as achieved within the importing country.”*

10. Subsequent to the above, CCFICS24 considered the *“Proposed draft guidance on use of systems equivalence”* at Step 3. Directly connected with this CCFICS24 also recommending a new work proposal to consolidate all equivalence guidelines. *The Committee agreed it would seek to complete the guidelines on system equivalence in parallel with commencing the new work on the consolidation of all equivalence-related guidance, in recognition of the strong linkage between the two.* This new work was allocated to the same electronic working group, chaired by New Zealand and co-chaired by Kenya and the United States, that was tasked with completing the work on systems equivalence.

11. The purpose and scope of the approved new consolidation work proposal regarding the consolidation the Committee’s previous and at the time current work (now CXG 101-2023) on equivalence (REP19/FICS Appendix II) was as follows:

“The purpose of the work is to consolidate all equivalence guidelines to provide clear, consistent, and useful guidance to countries considering the use of any form of equivalence. The scope of the consolidated guidelines will cover equivalence with respect to the protection of the health of consumers and ensuring fair practices in the food trade. They will include the process to be followed for considerations of equivalence for a specifically identified measure or set of measures as well as the National Food Control Systems (NFCS) in whole or the relevant part. It would also include guidance on how any such recognition of equivalence may be formalized in an agreement or arrangement. This work builds upon the Committee’s ongoing work developing guidelines on the use of system equivalence, which will continue through to adoption, noting the Committee was also tasked to consider consequential modifications of existing work that may be necessary.”

12. See paragraphs 23-32 from CX/FICS 17/23/6 which summarized CCFICS’ previous work on the equivalence of both sanitary and technical measures: [Agenda item 6 CX/FICS 17/23/6 February ...](#)