

APPENDIX II**DRAFT GUIDELINES ON THE PREVENTION AND CONTROL OF FOOD FRAUD****(For adoption at Step 5)****1. PREAMBLE / INTRODUCTION**

1. The increasing complexity of food systems and global trade in food makes food supply chains more vulnerable to food fraud. Protecting the global food supply from intentional actions that undermine protection of public health and upholding fair practices in food trade are common goals for all stakeholders.
2. Food fraud incidents can present a risk to public health and can result in economic loss for consumers and other stakeholders, disruption in trade, reputational damage, and unfair economic advantages.
3. Regulatory frameworks, government oversight and good manufacturing practices by food business operators (FBOs) are important to protect public health, to limit the opportunity for food fraud and to maintain consumer confidence.
4. Food fraud can be prevented or minimized using the existing controls and mitigation measures available to countries through their National Food Control Systems (NFCS) or by adopting new measures, if necessary.
5. The prevention and control of food fraud is a shared responsibility, with FBOs responsible for producing safe and suitable food, and for presenting it in a manner so as not to deceive consumers. Competent authorities provide regulatory oversight and have an important role in increasing awareness about food fraud by building partnerships and collaborating with relevant stakeholders to prevent, detect, mitigate, and control food fraud.
6. Work in the area of food fraud is widespread in a range of international organizations. Countries may wish to consider work from these and other organizations, as appropriate, when developing tools and strategies to prevent, detect, mitigate, and control food fraud.
7. Fundamental to the successful functioning of any food fraud combatting strategy is the collaboration of the stakeholders and establishment and maintenance of preventative measures.

2. PURPOSE / SCOPE

8. The purpose is to provide guidance to competent authorities and FBOs on the prevention, detection, mitigation, and control of food fraud to help protect the health of consumers, and to ensure fair practices in food trade, including, as appropriate, feed for food producing animals. Aspects related to food fraud are already addressed through many existing Codex texts; this guidance is intended to support or supplement existing Codex texts by providing additional guidance specific to food fraud that can be considered within NFCS. Issues related to intellectual property are not included in this document.

3. DEFINITIONS

9. For the purposes of this document, the following definitions apply:

[Food Fraud]: Any deliberate practice intended to deceive others in regard to the characteristics of food to gain an unfair economic advantage.]

[Food Integrity]: The status of food in which it is not altered or modified with respect to characteristics expected by the consumer, including food safety, quality, composition, nutritional properties and authenticity.]

[Food authenticity]: Conformity between the food product characteristics and the corresponding information provided through food product labelling or other information associated with food trade.]

4. TYPES OF FOOD FRAUD:

10. The following section provides examples, when done intentionally for economic gain, of types of food fraud:

Addition: Adding an undeclared substance to a food product that would not ordinarily be present, or present in that quantity, in the food.

Substitution: Replacing a food or a food ingredient, in whole or in part with another ingredient, in whole or in part (most often of lower value) without declaring it.

Dilution: Adding a material to make another ingredient present at a lower concentration than represented.

Counterfeiting: Making an imitation of a food product with the intention to deceive or defraud.

Misrepresentation: Labelling or marketing a food product in a manner that is false, misleading, or deceptive.

Concealment: Hiding or not disclosing information on the safety, suitability, or quality of food ingredients or food products.

5. PRINCIPLES

Competent Authorities and FBOs should be guided by the following principles to prevent, detect, mitigate, and control food fraud:

11. **Principle 1:** The occurrence of food fraud can be reduced by having measures in place, proportionate to the level of risk.
12. **Principle 2:** Cooperation among Competent Authorities, within or between countries, as well as with FBOs, can help reduce food fraud.

6. ROLES AND RESPONSIBILITIES

13. The relevant competent authorities have the role and responsibility to, as appropriate to the risk and the circumstances existing in their territories or associated with imports:
 - a. Establish or maintain controls in an NFCS' legal structures and requirements to prevent, detect, mitigate, and control food fraud.
 - b. Establish or maintain oversight programs to prevent, detect, mitigate, and control food fraud.
 - c. Communicate, coordinate and collaborate with other competent authorities within and between countries, industry, academia and stakeholders as needed.
 - d. Notify any countries thought to be impacted when incidents of food fraud are identified or suspected.
14. FBOs have the role and responsibility to, as appropriate:
 - a. Analyze and understand the vulnerabilities in their supply chain and products/ingredients/packaging that may be susceptible to food fraud.
[a. bis Have measures in place to prevent, detect, mitigate and control the risk that the food products and ingredients are not authentic and ensure that the nature, safety, quality, and substance are accurately represented. Have processes in place for rapid removal of affected product from the market.]
 - b. Represent food for sale in a manner that does not deceive or mislead consumers.
 - c. Inform the competent authority when they detect or suspect food fraud.
 - d. Take reasonable precautions to prevent, detect, mitigate, and control food fraud, including having processes in place for rapid removal of affected product from the market.
 - e. Create awareness and understanding of food fraud throughout the FBO [and build an anti-food fraud culture in all elements of the organization].

7. RELEVANT ACTIVITIES FOR COMPETENT AUTHORITIES

15. Measures to prevent, detect, mitigate, and control food fraud incorporate aspects of food safety and quality, consumer protection, and ensuring fair practices in food trade, and so may be addressed within the structure of a NFCS. Competent authorities should consider conducting a range of activities to mitigate risks of food fraud, as appropriate for the level of risk, including, for example:
 - a. Reviewing their NFCS and determine whether their system has an adequate regulatory and legislative framework (laws, regulations, guidance) and appropriate policies and procedures to monitor, prevent, detect, control, and respond to food fraud incidents and strengthen fair trade. Such policies could include legal requirements, including sanctions, and responsibilities of the FBOs related to food integrity and authenticity.
 - b. Establishing procedures to receive and evaluate reports of food fraud and determine appropriate follow-up, consistent with the food safety risk identified and national priorities.
 - c. Developing tools to protect persons acting as "whistle blowers" reporting such incidents.
 - d. Establishing surveillance activities to detect food fraud. These activities could be conducted on a routine basis or in response to specific risk that has been identified.
 - e. Providing practical guidance to FBOs and other stakeholders on how to address food fraud. Such guidance could include resources and access to tools on how to develop procedures to prevent, detect, mitigate, and control food fraud.

- f. Establishing appropriately secure communication channels with other governments, FBOs, academia, and other stakeholders to obtain information about situations involving food fraud and to share relevant knowledge, experience, and tools for combatting food fraud, such as food standards and analytical methods.
 - g. Establishing communication mechanisms for timely reporting to stakeholders about incidents involving food fraud, as appropriate.
16. Policies, procedures, and regulatory requirements related to food fraud prevention and control should be transparent and risk-based.
17. If a food fraud incident might impact food safety and threaten public health, the competent authority should immediately alert all other relevant competent authorities.

8. COOPERATION, COLLABORATION AND EXCHANGE OF INFORMATION BETWEEN COMPETENT AUTHORITIES

18. Competent authorities should cooperate, collaborate and exchange information with the relevant competent authorities in situations where food fraud is suspected or identified, as appropriate and in accordance with national law and information sharing agreements. This exchange of information could be expanded when there is awareness that fraudulent product poses a food safety risk and has been distributed to other countries.
19. The exchange of information should be made as early and rapidly as possible, recognizing that the initial information may often be incomplete and more detailed information will be provided as it becomes available. Identification of key elements, including relevant information in *CXG 19-1995 Annex*, that contribute to international harmonization and collaboration on the prevention and control of food fraud are essential.
20. Information exchanged should be sufficient to allow competent authorities to evaluate the food fraud incident and mitigate its impact, especially with regard to risk to consumers, without jeopardizing ongoing investigations.
21. Enhance collaboration to better integrate neutral technologies and use of data mining and machine learning technologies in the food chain which can aid in more effectively preventing food fraud.
22. Competent authorities may benefit from establishing appropriate information exchange routes with relevant enforcement bodies and agencies, including those responsible for dealing with criminality. In establishing such routes, competent authorities should give due consideration to information security around personal data, operationally sensitive material and also have in place systems to assure the integrity of any evidence gathered and/or shared.