



## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEX COMMITTEE ON GENERAL PRINCIPLES

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### CODEX PROCEDURAL MANUAL: REVIEW OF THE POTENTIAL USE OF EXISTING PROVISIONS TO PROMOTE MORE RESOURCE-EFFICIENT PRACTICES IN THE REVIEW OF NEW WORK PROPOSALS WHICH DO NOT FALL WITHIN THE REMIT OF AN ACTIVE CODEX COMMITTEE

*(Prepared by the Codex Secretariat)*

#### I. BACKGROUND

1. The 87th session of the Executive Committee of the Codex Alimentarius Commission (CCEXEC87) (2024) during the consideration of new work proposals submitted for its critical review, also discussed from a general perspective how to address new work proposals not falling under the purview of an active committee<sup>1</sup> as it was brought to its attention by the Codex Secretariat that several such new work proposals were under preparation.
2. CCEXEC87 recommended that the 47th session of the Codex Alimentarius Commission (CAC47) (2024) request the Codex Committee on General Principles (CCGP) to review how existing provisions of the *Codex Procedural Manual* may be used to promote more resource-efficient practices in the review of new work proposals, in particular those for which there may not be a relevant existing or active committee that might undertake their technical review, and make recommendations for consideration by CCEXEC89 and CAC48.<sup>2</sup> This recommendation was endorsed by CAC47.<sup>3</sup>
3. CCEXEC87 also recalled that for new work proposals for which the relevant committee was adjourned *sine die*, there was a need to seek the views of Members and Observers on the need for the new work and the content of any new work, and recommended that this should be done in an inclusive, timely and resource-efficient way.<sup>4</sup>

#### II. RELEVANT EXISTING PROVISIONS OF THE *CODEX PROCEDURAL MANUAL*<sup>5</sup>

4. Section 2, Elaboration of Codex standards and related texts, includes several provisions addressing new work proposals, regardless of whether they fall under the remit of an active or inactive committee, or outside such remits. Among the key points are that proposals for new work:<sup>6</sup>
  - i. continue to meet the strategic priorities of the Commission (Section 2.1, paragraph 2);
  - ii. can be developed within a reasonable period of time, taking into account the requirements and availability of scientific expert advice (Section 2.1, paragraph 2);
  - iii. shall be accompanied by a project document, prepared by the Committee or Member proposing new work detailing specified information (Section 2.1 Part 2, paragraph 12);

<sup>1</sup> CX/EXEC 24/87/2 Add.3, Section B and paragraph 16(ii-iii); REP24/EXEC2, paragraphs 77-81.

<sup>2</sup> REP24/EXEC2, paragraph 83.

<sup>3</sup> REP24/CAC, paragraph 22(iv).

<sup>4</sup> REP24/EXEC2, paragraph 84.

<sup>5</sup> All references refer to the 30th edition of the *Codex Procedural Manual*.

<sup>6</sup> Reference to proposals for new work is also intended to include any proposals for amendment or revision of Codex texts as relevant, all of which are reviewed as new work proposals.

- iv. in the case of commodities, should include specific information as outlined in Section 2.4, Guideline on the application of the criteria for the establishment of work priorities (criteria applicable to commodities).
5. Section 2 also highlights that decisions to undertake new work shall be taken by the Commission taking into account a critical review conducted by CCEXEC (Section 2.1 Part 2, paragraph 13).
6. There are some provisions with regard to new work proposals in areas where the relevant Codex subsidiary bodies have been abolished, dissolved or adjourned *sine die*. However, these provisions generally cover very specific scenarios such as conversion of a regional standard into an international standard, or amendment or revision of an existing text for which the relevant commodity committee is not active.
7. In the case of a proposal for conversion of a regional standard into a worldwide standard, this should preferably come through the originating coordinating committee. In case the relevant commodity committee is not active, it would be considered by CCEXEC in the framework of the critical review process and if approved by the Commission as new work, consideration will be given on how to proceed with the work either by correspondence, or by reconvening the adjourned committee (Section 2.1 Part 6, paragraph 23 b) ii.).
8. When the Commission approves new work proposals, it also refers the new work for consideration to the appropriate subsidiary body, if such body is still in existence. In the case such a new work proposal relates to the amendment or revision of an existing text and the relevant subsidiary body is no longer in existence, the Commission will determine how to best deal with the new work (Section 2.1 Part 7, paragraph 31). In the case such a proposal relates to an amendment to an existing standard, a working document providing the rationale and proposed amendment is circulated for comments from Members and if the majority support the proposal, then it can be submitted for consideration and adoption by the Commission. However, if replies do not offer an uncontroversial solution, then the Commission should be informed so that it can determine how to proceed (Section 2.1 Part 7, paragraph 32). There is no specific guidance on the process to be taken for consideration of a proposal to revise an existing text in this situation.
9. Perhaps the most relevant provision to the subject of this document comes under Section 2.2, Criteria for the establishment of subsidiary bodies of the Codex Alimentarius Commission. Paragraph 33 indicates that when there is a new work proposal in an area not covered by the terms of reference of any existing subsidiary body, or the relevant subsidiary bodies is adjourned *sine die*, such a proposal should be accompanied by a written statement to the Commission explaining its justification in light of the Commission's medium-term objectives and containing, as far as practicable, the information contained in Section 2.3, Criteria for the establishment of work priorities. Importantly and notably, a footnote to this paragraph notes that the Commission may wish to consider extending the terms of reference of an appropriate existing body to accommodate the proposal.

### III. EXPERIENCE WITH THE EXISTING PROVISIONS AND MECHANISMS

10. The *Codex Procedural Manual* is clear that each proposal for new work or revision of a standard shall be accompanied by a project document that details specific points for information and explicitly mentions the need for a justification when a proposal for new work does not fall within the mandate of an existing committee or a committee adjourned *sine die*. It is also clear that it is the Commission that takes the decision on approval of such new work.
11. Although not specifically mentioned in the *Codex Procedural Manual*, over the years a practice has evolved to develop a discussion paper in advance of, or in conjunction with, the project document to provide an in-depth description of the proposal, including context and justification. This facilitates the review and the further discussion at committee level or, in the case of a proposal falling outside the remit of an active committee, in CCEXEC and the Commission.
12. Most new work proposals fall within the remit of an active committee and are discussed and considered by that committee before a decision is taken. Such proposals benefit from discussion among delegation participants that are generally familiar with the topic. It provides the opportunity for face-to-face discussion and exchange with Members and Observers on a proposal, for others to give direct input to the proposal, and for the proposer to provide further explanations or rationale. Thus, it is a dynamic process which helps ensure the clarity of the proposal and can facilitate the progression of the work if approved. In some cases, a committee may consider a new work proposal in the form of a discussion paper over more than one session. For example, the new work proposal to develop a code of practice (COP) for the prevention or reduction of ciguatera poisoning benefitted from being scrutinized over several sessions of the Codex Committee on Contaminants in Food (CCCF), and once approved, the COP was developed and then adopted within a year.

13. In the case of a proposal falling outside the remit of an active committee, the only forums for consideration of the proposal are CCEXEC and CAC. Given the broader mandate of these fora, and the fact that they usually do not have the technical expertise to deal with specific technical issues, the opportunity for in-depth discussion and exchange of information and further development of a proposal is more limited. Furthermore, in advance of submission of the proposal, i.e. in the preparation phase, there is no forum for discussion.
14. While the focus of this document is new work proposals falling outside the remit of an active committee, it is worth noting that there may also be situations when questions arise related to existing Codex texts that have been developed by committees adjourned *sine die*, or that no longer exist. For example, this might arise during alignment and related work, such as when the Codex Committee on Methods of Analysis and Sampling (CCMAS) reviews methods of analysis related to a commodity standard. In this situation, there may be a need for input on the provisions in the relevant standard to address particular questions relevant to completion of the alignment or review of horizontal elements. This presents a similar challenge as new work proposals falling outside the remit of active committees, hence any solutions for such new work may also be relevant to this scenario.
15. There are some approaches that have been or could be used to enable a dynamic discussion also from a technical perspective of new work proposals falling outside of the remit of an active committee before submission for critical review by CCEXEC and consideration by CAC. All these approaches strive to ensure inclusiveness and transparency.
  - i. One approach to trying to overcome the lack of an active committee discussing a new work proposal is the use of a circular letter (CL) as a means of seeking input from Members and Observers to gauge the interest in pursuing the proposed work and the way forward.<sup>7</sup> While this approach has been successful in gauging interest, it does not facilitate active exchange among Members and Observers on the technical merits for developing the standard and defining its scope.
  - ii. Another approach that has been applied is to recommend that new work proposals be reviewed by existing committees even if they do not fall directly within their terms of reference. This is in line with the footnote of paragraph 33 in Section 2.3 that notes that the Commission may wish to consider extending the terms of reference for an appropriate existing body to accommodate the proposal. Recent examples include the discussions in the Codex Committee on Food Additives (CCFA) on the proposal for new work on baker's yeast and on a proposal on cell-based foods. Such a decision is usually based on a clear understanding of the new work proposal's scope, the required expertise to address the issue, and a review of the terms of reference of active committees to identify the one most closely related to the scope of the new work proposal. Its inclusion in the agenda of the selected committee ensures that Members are aware that it will be part of the discussions and can prepare themselves accordingly, such as by consulting and including the relevant expertise in their delegations.
  - iii. The coordinating committees can also recommend the development of international standards for products of interest to the region that may also be of relevance outside the region. In this context, these committees could also provide the opportunity for dynamic discussions of new work proposals noting that they are also open to Members from outside the region as Observers.<sup>8</sup>
  - iv. Yet another approach could be to temporarily reconvene an adjourned committee to meet in a resource efficient manner e.g. by correspondence, for the sole purpose of reviewing a work proposal and without commitment to remain active.<sup>9</sup>
16. When considering a possible approach to reviewing new work proposals falling outside the remit of an active committee, a number of factors need to be considered including:
  - i. the already intense schedule of Codex meetings as well as the extensive number of electronic working groups (EWG);
  - ii. the potential resource implications of the approach for host countries and/or the Codex Secretariat; and
  - iii. the existing workload of the Commission.

<sup>7</sup> The *Codex Procedural Manual* specifically proposes this approach as a means of considering amendments of existing Codex texts when the originating committee is not active - Section 2.1, Part 7, paragraph 32. CAC46 also agreed to apply this approach to a proposal for new work on millets.

<sup>8</sup> See Section 5.1 of the *Codex Procedural Manual* – FAO/WHO coordinating committees, Terms of reference 3.

<sup>9</sup> A decision on reactivation of a committee is within the purview of CAC.

17. When a Member is developing and proposing a new work falling outside the remit of an active committee, coordination at the national level through the Codex Contact Point is crucial. Coordination at the regional level through the relevant Coordinator is beneficial. This is to ensure that any initiative from a Member is aligned with other Codex activities that the Member is engaged in, and that consideration is given to whether the proposal could be addressed in a coordinating committee or in an active technical committee working on related topics.
18. While committees have different terms of references, they all remain under CAC and open to all Members and Observers who themselves can determine the composition of their delegations and the expertise therein. In this context, and in the interests of increasing efficiency, there is some flexibility when it comes to consider proposals within existing committees. This can be facilitated by ensuring timely communication of the items on the agenda and relevant working documents so that Members and Observers are prepared to discuss, irrespective of the forum. CCEXEC and/or the Codex Secretariat could play an advisory role in this regard.

#### IV. SUPPORTIVE TOOLS THAT COULD BE APPLIED LOOKING AHEAD

19. Practical guidance on the development of new work proposals is currently under development by the Codex Secretariat. It will, based on the experience to date, provide further guidance on the preparation of new work proposals, and thereby facilitate the work of the proposers. The intent of the guidance is also to strengthen the quality of the new work proposals being submitted, which would facilitate their review.
20. The existing mechanisms in the *Codex Procedure Manual*, and practices put in place so far, as described above, give the Commission several options to consider proposals for new work that do not fall under the remit of an active or inactive committee. Whichever mechanism is chosen, there is room for using additional tools to support these mechanisms to facilitate the consideration of the new work proposals through the enhanced and broader use of information and communications technology (ICT) tools.
21. ICT tools are already used to support committee sessions (e.g. webcast, remote participation), working group meetings held in conjunction with committee sessions (e.g. virtual working group meetings), or inter-sessional activities (e.g. webinars or EWGs). These tools could be updated in line with the latest technological developments and innovations to increase ease of use and continue to promote resource efficiency. Their use could be expanded to discuss new work proposals not falling within the remit of an active committee through the organization of ad hoc events, such as webinars, organized by the proponents of such proposals or the Codex Secretariat. Such events could be focused and virtual and open to all Members and Observers. They offer more flexibility and provide the opportunity for direct engagement with technical experts. Furthermore, different models could be explored to support interpretation and translation to disperse and/or reduce costs.<sup>10</sup>
22. As described in paragraph 15(iv), if a committee that has been adjourned *sine die* is temporarily reactivated by CAC to discuss a new work proposal, consideration could be given to cost-sharing by co-hosting the meeting or even temporarily assigning a new host to the committee to facilitate the re-establishment of the committee.<sup>11</sup>

#### V. CONCLUSIONS

23. This review confirms that use of the existing provisions of the *Codex Procedural Manual* can promote resource-efficient practices in the review of new work proposals, including those for which there may not be a relevant existing or active committee that might undertake their technical review.
24. In an increasingly resource constrained environment, making optimal use of existing structures is desirable.
25. The use of a CL has been a useful way to gauge interest in new work proposals falling outside the remit of an active committee. However, it does not provide the possibility for technical exchange and dialogue.
26. While committees have their terms of reference, ultimately CAC has the possibility to assign any work to any committee. Recent experiences have demonstrated that an active committee working in a related area can provide a relevant forum to review proposals that do not directly fall within its terms of reference. Having some flexibility around what committees can discuss, could make this option more widely applicable. Coordinating committees can also play a role in this regard.
27. Another approach could be to temporarily reconvene an adjourned committee to meet in a resource efficient manner.

<sup>10</sup> Currently costs for translation and interpretation in Codex work are borne by the Codex Secretariat and host countries. Resources for additional interpretation and translation would have to be sourced outside of these existing sources.

<sup>11</sup> This approach was taken in the case of the reactivation of the Codex Committee on Sugars to address new work on panels.

28. The success of any committee is dependent on the engagement of delegations and their composition. Matching delegation composition to the issues on an agenda is critical to facilitate discussions on additional issues in existing committees or on new issues in reactivated committees. Enhancing communication to ensure Members and Observers are fully aware of the topics on the agenda of a session, particularly when it includes additional items compared to previous sessions, would be important to the success of such an approach.
29. Where no relevant committee exists, having a mechanism for engagement with Members could provide that opportunity needed to develop comprehensive work proposals with broad Member support.
30. Application of ICT tools can support existing mechanisms to ensure resource-efficient review of new work proposals falling outside the remit of an active committee. There is opportunity for more innovation in this regard.
31. It is recognized that there may still be occasional situations when the above options may not be adequate, and a specific solution may need to be explored on a case-by-case basis. However, considering recent or upcoming proposals, one of the above mechanisms could, and in some cases has, been applied.

## **VI. RECOMMENDATIONS**

32. CCGP34 is invited to:
  - i) consider approaches available to review new work proposals not falling within the remit of an active Codex committee;
  - ii) propose a possible way forward, which may include recommending:
    - a. that proponents of new work carefully review the terms of reference of existing committees and, in consultation with the Codex Secretariat (and consultation with the committee chairperson as appropriate), submit the proposal to the relevant active committee for further consideration.
    - b. that where such an active committee cannot be identified, proponents of new work should submit the proposal for consideration by one or more coordinating committees as a means of gaining further input on the proposal, which could then be submitted from the coordinating committee or by the proponent based on input by the coordinating committee.
    - c. that when options a. or b. are not feasible but a relevant adjourned committee exists, consider proposing reactivating that committee for the sole purpose of discussing the proposal, noting the importance of cost effectiveness and use of ICT tools.
    - d. that where none of the above approaches are appropriate, the proponent consider organizing an event, which could be held in the margins of a Codex meeting or virtually, and open to all Members and Observers, to seek input on the proposal before discussion.
    - e. encourage optimal use of ICT tools, irrespective of the approach, and a combination of the above may also be appropriate. Innovation in the implementation of the approaches e.g. co-hosting or temporary transfer or hosting of adjourned committees could be encouraged; and
  - iii) provide recommendations for consideration by CCEXEC89 and CAC48.