

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
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Organization

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DISCUSSION PAPER ON THE USE OF “RESERVATIONS” IN CODEX PROCEEDINGS

(prepared by Egypt, Oman and Tunisia)

1. Background and Objective

The purpose of this Conference Room Document (CRD) is to initiate a discussion among Codex members and observers regarding the use of “reservations” within Codex proceedings. Considering the regular use of reservations in a more or less systematic manner in certain Codex proceedings, this paper solicits to analyze and build a better understanding on such a use.

Codex standards associated with reservations recorded by Codex members with a known robust food control system may also mistakenly confer the mis-conception that the scientific substantiation underpinning their development by the Codex advisory bodies is unsuitable or less protective.

While it is understood **that the use of reservations is the right of Codex members to use**, providing **clarification and added guidance offered** informally or through the procedural manual, to delegates of Codex members particularly those of developing countries and/or those newly appointed to represent their countries in Codex discussions, would support a more consistent approach for the use of “reservations”. Such guidance would also contribute to maintaining and strengthening the trust in the consistency and robustness of Codex proceedings,

2. Analysis

Reservations in the Procedural Manual:

A reservation in the Codex context is an official statement by a member country or organization expressing disagreement or concern with a proposed draft standard, guideline, or decision adopted by a Codex committee or by the Codex Alimentarius Commission (CAC).

The Codex Procedural Manual references “reservations” in the context of member positions and final decisions in a limited fashion.

The procedural Manual (2025 Edition) mentions “**reservations**” in the following paragraphs as follows:

Section 3: *Guidelines for subsidiary bodies:*

Mainly in the context of Committees Working by Correspondence (CWBC)

Paragraph 82: **Reservations** in the correspondence setting should be treated in the same manner as **reservations** in a physical meeting (i.e. by specifying the basis or rationale of the delegation's opposition to a decision) and should be recorded in the meeting report upon request.

Paragraph 89: Members of CWBCs have the right to ask that their positions, including **reservations** and opposition to a recommendation or decision, be recorded in the report of the CBWC.

Other wording is being used in the Procedural Manual to convey similar meanings, in relation with opinions about a Codex decision, including Codex standards – These terms are cited in the Procedural Manual under such as **objections** or **observations**

- Section 3: Guidelines for subsidiary bodies:

Paragraph 45 “The Chairperson should invite **observations** from members of the committee concerning the provisional agenda and in the light of such **observations** formally request the committee to adopt the provisional agenda or the amended agenda.”

- Section 7: Relations with other Organizations:

Paragraph 29 “If, in the view of the Directors-General, the conditions indicated in the previous paragraphs materialize, they shall inform the organization concerned accordingly and invite it to submit its **observations**. The Directors-General will seek the advice of the Executive Committee and will submit any observation received from the organization to it. The Directors-General, taking into account the advice of the Executive Committee and any **observation** submitted by the organization, shall decide whether to terminate its observer status. A reapplication from the same organization shall not normally be considered until two years have elapsed since the Directors-General's decision to terminate its observer status.”

- 3: Guidelines for subsidiary bodies:

Paragraph 47 “Chairpersons should also ensure that the written comments, received in a timely manner, of Members and Observers not present at the session are considered by the committee and that all issues are put clearly to the committee. This can usually best be done by stating what appears to be the generally acceptable view and asking delegates whether they have any **objection** to its being adopted.”

Paragraph 79 Interpretation of Silence “Means of communication to signal support or **objection** shall be explicitly clarified in advance of sessions. It is, however, understood that silence or the absence of specific contrary views or objections shall be taken to mean tacit agreement or no **objection** to proceed as proposed by the chairperson. This point should be clearly communicated to all participants to avoid any misunderstanding when seeking comment on specific matters under discussion including proposed conclusions on progression of a standard through the step process. Chairpersons should allow sufficient time for response to make sure that silence is not the result of temporary technical problems.”

Paragraph 80 “In determining the level of consensus when progressing through the step process, chairpersons should typically propose a conclusion for consideration by Members, which may be modified and presented as revised to achieve consensus. The same practice should be followed by CWBCs. For example, a chairperson could propose a conclusion to advance a standard by asking a specific question, such as: “Is there any **objection** to advancing the draft standard to Step X?”

It is understood that all Codex texts, once adopted would have the same relevance, regardless of the number of reservations associated with their adoption, and of the delegations that would have recorded such reservations.

The limited guidance and clarity on how and when “reservations” should be submitted, considered, and recorded may lead to inconsistencies in application, interpretation, and recognition of “reservations”, potentially undermining transparency and trust in Codex processes.

Review of Use of Reservations in Codex Texts:

An Expert Working Group struck under the Arab Codex Initiative¹, and operating under the leadership of the Coordinator for the Near East (Oman), was tasked to examine the pattern of use of reservations over the past five years in Codex proceedings of four representative Codex Committees: the Codex Committee on Contaminants in Food (CCCF), the Codex Committee on Food Additives (CCFA), the Codex Committee on Residues of Veterinary Drugs in Food (CCRVDF) as well as the Codex Committee on Pesticide Residues (CCPR).

The analysis aims to rely on the review of the patterns of use of reservations as recorded in committee reports, but also to attempt to identify triggers, geographic patterns and to document the rationale that is pursued by Codex delegations in recording reservations on the adoption of Codex texts.

It was identified that the planned analysis requires, beyond the examination of Codex reports to survey Codex members' opinions and practices with the objectives to document:

- The frequency of use of reservations,
- The possible motivations or justifications advanced for the use of reservations,
- The perception of other Codex members, as well as observers, in relation with reservations recorded in conjunction with some Codex texts,

Any interest by Codex members or observers to seek further clarification on the use of reservations by Codex members, aiming to enhance clarity, consistency, and transparency in the use of reservations within Codex processes. The review underway is attempting to answer the following questions:

- Is there a common practice followed by members on the use of "Reservations" in Codex proceedings?
- Should a reservation be used when the proposed Codex Standard diverges with a national standard? Should this use be therefore systematic?
- Should a "reservation" be used when there is disagreement with the outputs of the scientific advice reached by Codex advisory bodies in comparison with the result reached by national advisory bodies/ risk assessment agencies?
- Should a "reservation" be used when there is a disagreement with the relevance of the risk management factors employed by the Codex committee to develop/ attain the proposed standard?
- Which concerns expressed by members, that remain unresolved, which should lead to recording a reservation, while not impeding the consensus reached to support the adoption of a Codex standard?
- What is the perception of Codex members, particularly those whose food control system is maturing and observers, of Codex standards adopted with recorded reservations from several Codex members, particularly those of known robust food control systems?
- Should recording a reservation to the adoption of a Codex text be systematically accompanied by the rationale of the member expressing it?
- Should a process similar to the "concern form" used in CCRVDF and CCPR be applied more generally in Codex proceedings, in conjunction with the use of "reservations"?
- Is recording a reservation the only tool availed to Codex members should they wish to uphold stricter national regulations and/or with a stronger level of protection than what was applied by Codex?

¹The Arab Codex Initiative is an initiative led and implemented by the Arab Industrial Development, Standardization and Mining Organization (AIDSMO) in partnership with the Global Food Regulatory Science Society (GFoRSS), disciplinary group of the International Union of Food Science and Technology (IUFoST). AIDSMO and IUFoST are observer organizations of the Codex Alimentarius Commission. The Arab Codex Expert Group on CCGP included the participation of Algeria, Bahrain, Egypt, Jordan, Libya, Oman, Tunisia, Qatar, the United Arab Emirates, and Yemen.

- Is there a documented best practice developed by members or regional committees that can be relied upon to support the development of guidance on the use of “reservations” in Codex proceedings?

It is understood that **reservations are often used by members to record a concern** with a proposed standard, while expressing **their commitment to reaching consensus**, therefore not impeding the adoption of the standard.

The initial findings of the survey carried out by the Arab Expert Working Group on CCGP focused on the reservations submitted in relation with decisions of the Codex Committee on Contaminants in Food (CCCF) over the past 5 years, by reviewing the report of each committee and the decision taken by the Codex Alimentarius Commission (CAC) in the same year. These initial findings are compiled in Appendix I and show that Sixteen (16) CCCF proposed standards were recorded with reservations made by from members with a total of Fifteen (15) standards out of 16 that were recommended to move forward for endorsement by the CAC, noting the reservations submitted.

An initial survey of members of Arab Expert Working Group identified that the current absence of detailed text regarding the use of “reservations”, submission process, when to submit a reservation, including details such as rationale, scientific evidence, and expected implications, may contribute to inconsistencies in how reservations are perceived and addressed. Furthermore, it remains unclear to members of the Working Group/ Authors of this paper how reservations influence the consensus process or whether they carry procedural weight once formally submitted.

Other clarifications needed as expressed by members of the Arab Expert Working Group on CCGP included the need to offer clarification on the way comments expressed by Codex members would be reflected in the Codex Committee reports, should the member wish to record concerns about some aspects of a Codex standard under development, and if the said member chooses not to formally record a reservation in conjunction with the adoption of the standard. It was acknowledged that such comments were generally reported without attribution. But in certain circumstances, and upon the insistence of the member, the attribution of the comment expressing concerns was recorded in the report, leading to the need for further clarification on the approach to be followed for an equitable treatment of members and even observers.

3. Proposed Action Forward

The initial findings of this working group need to be complemented by additional analysis and input from members and observers outside of the circle of the authors of the current paper.

Initial consultations with the Codex Secretariat and with the Chair of CCGP will inform a path forward on how to conduct the analysis outlined above.

Consultations with other Codex members and observers, during CCGP34 and beyond will also better inform a path forward which may include:

- The development of a more fulsome discussion paper, supported with a broader input from members and observers to be submitted for consideration of CCGP35,
- The consideration of development of a clear definition for “reservations” in the Codex procedural manual along with a proposed text to better guide members on their use.

These options would be outlined in the updated discussion paper to be submitted for the consideration of CCGP35.

The overall objective pursued is not only added procedural clarity, but also to ensure that members’ genuine scientific and regulatory concerns in relation with a proposed Codex standard are appropriately acknowledged during deliberations, while supporting reaching consensus, as the backbone of development and adoption of Codex standards.

4. Conclusion

This paper seeks to initiate a discussion and a path forward to develop a common understanding and a possible common practice on the use of “reservations” in Codex proceedings, aiming for more clarity, transparency and consistency and dispelling any possible misconception associated with such use.

The intent is to **uphold the right of members to recourse** to “reservations” as a tool to express their opinions and concerns, while supporting consensus and maintaining and even enhancing trust in the robustness of Codex processes.

Appendix I

Initial Findings on Reservations submitted for CCCF

Committee	Agenda Item	Member/s Submitted Reservation and Rationale	CAC Final Decision
CCCF13 (2019)	Item 6: Proposed draft maximum levels for cadmium in chocolates and cocoa-derived products	Reservation on <u>advancing the ML of 0.3 mg/kg</u> for chocolates containing or declaring <30% total cocoa solids on a dry matter basis for adoption at Step 5/8 by CAC42.	CAC42 (2019) agreed to adopt the proposed <u>ML of 0.3 mg/kg at Step 5</u> , and noted the reservations submitted.
CCCF14 (2021)	Item 5: Maximum levels for cadmium in chocolates containing or declaring <30% total cocoa solids on a dry matter basis	Reiterated the reserved members view and reservation as also expressed at CCCF13 and CAC42 with the the need for a lower cadmium ML for this category of chocolates of 0.1 mg/kg.	CAC44 (2021) adopted the <u>ML 0.3mg/kg</u> for cadmium in chocolates containing or declaring <30% total cocoa solid on a dry matter basis <u>at Step 8</u> , noting the reservations submitted.
CCCF14 (2021)	Item 6: Maximum levels for cadmium in chocolates containing or declaring ≥30% to <50% total cocoa solids on a dry matter basis and cocoa powder containing or declaring 100% total cocoa solids on a dry matter basis ready for consumption	Reservation to setting the MLs at any of the levels proposed.	CAC44 (2021) Adopted the <u>ML of 0.7mg/kg</u> for chocolates containing or declaring ≥30% to <50% total cocoa solids <u>at step 5/8</u> .
CCCF14 (2021)	Item 8: Maximum levels for lead in certain food categories (Food for infants and young children “Fruit Juices”)	Reservation submitted supporting a lower ML of <u>0.02 mg/kg</u> which could be achieved with the global data set.	CAC44 (2021) Adopted as consequential amendment to the MLs for fruit juices to include a note in the notes/remarks of the GSCFF for the MLs for fruit juices and grape juices as follows: “the ML also applies to fruit juices for infants and young children”, <u>ML 0.03mg/kg for fruit juices and ML 0.04mg/kg for Grape juice</u> .

Committee	Agenda Item	Member/s Submitted Reservation and Rationale	CAC Final Decision
CCCF15 (2022)	Item 5: Maximum level for cadmium in cocoa powder (100% total cocoa solids on a dry matter basis) (at step 4)	Reservation submitted based on regional food safety authority had <u>established a lower TWI</u> and JECFA91 (2021) had concluded that the cocoa products can contribute up to 9% of the exposure of European children and when cocoa products come from the Latin American region, that it could even go up to 39% of the exposure. this justified the need to set a strict ML for cadmium from cocoa products for their consumers.	CAC45 (2022) Adopted ML of <u>2.0 mg/kg</u> for cocoa powder (100% total cocoa solids on a dry matter basis) at step 5/8
CCCF15 (2022)	Item 9: Maximum levels for total aflatoxins in certain cereals and cereal-based products including foods for infants and young children and associated sampling plans (at step 4) " <u>ML flour, meal, semolina and flakes derived from maize – 10 µg/kg</u> "	MLs should be set as low as reasonably achievable. It was further noted that there was a large year-to-year variation in all regions of the world. <u>Proposals were made for lower MLs of 2.5 µg/kg or 4 to 5 µg/kg.</u> It was noted that an ML of 2.5 µg/kg, for example, would result in a significant reduction for human exposure to aflatoxins, with an acceptable rejection rate of 4%.	CAC45 (2022) Adopted the ML of 10 µg/kg for flour, meal, semolina and flakes derived from maize at step 5/8

Committee	Agenda Item	Member/s Submitted Reservation and Rationale	CAC Final Decision
CCCF15 (2022)	<p>Cont. Item 9: Maximum levels for total aflatoxins in certain cereals and cereal-based products including foods for infants and young children and associated sampling plans (At Step 4) <u>“ML for Husked rice – 20 µg/kg”</u></p>	<ul style="list-style-type: none"> • The ML should be set <u>as low as reasonably achievable</u>. • High consumption of husked rice in their countries, particularly because of its promotion as part of a healthier diet coupled with such a high ML may pose a greater risk to their consumers. • Lower MLs were already implemented at country or regional level. • It was difficult to distinguish rice destined for further processing from rice for direct consumption. 	<p>CAC45 (2022) Adopted ML of <u>20 µg/kg</u> for husked rice <u>at step 5/8</u></p>
CCCF15 (2022)	<p>Cont. Item 9: Maximum levels for total aflatoxins in certain cereals and cereal-based products including foods for infants and young children and associated sampling plans (At Step 4) <u>“ML for cereal-based food for infants and young children – 5 µg/kg”</u></p>	<ul style="list-style-type: none"> • ML for aflatoxin should be set as low as reasonably achievable, in particular for foods destined for infants and young children. It was pointed out that these foods played an important role in the complementary feeding period for infants and other than milk, exclusive feeding of the products, made infants even more vulnerable to the dietary risk of contaminated cereals. • A lower ML was achievable by sourcing cleaner ingredients. 	<p>CAC45 (2022) Adopted ML of <u>5 µg/kg</u> of total Aflatoxins for cereal-based foods for infants and young children <u>at step 5/8</u></p>

Committee	Agenda Item	Member/s Submitted Reservation and Rationale	CAC Final Decision
CCCF15 (2022)	<p>Item 10: Maximum level for total aflatoxins in ready-to-eat peanuts and associated sampling plan (at step 4) "<u>MLs for AFT in RTE Peanuts</u>"</p>	<ul style="list-style-type: none"> • A lower ML should be established regionally taking into account that there was already an ML of 15 µg/kg for peanuts intended for further processing and in view of the effective sorting and cleaning procedures as well as other physical treatments a lower ML than 10 µg/kg could be achieved in the interest of public health. In particular, attention was drawn to an opinion of their regional food safety authority in 2018 on the health impact if the current level in the EU of 4 µg/kg were revised upwards to 10 µg/kg that this would result in an increase in cancer risk for the European population. • The <u>ALARA approach</u> should be followed especially for a carcinogen such as aflatoxin 	<p>CCCF15 (2022) agreed to:</p> <ul style="list-style-type: none"> • To return the ML and associated sampling plan to Step 2/3 for further consideration.
CCCF16 (2023)	<p>Item 9: Maximum levels for total aflatoxins and ochratoxin A in nutmeg, dried chili and paprika, ginger, pepper and turmeric and associated sampling plan (at step 4) "<u>AFT in dried chili pepper and nutmeg</u>"</p>	<p>while there was a general support reservation expressed concern with the proposed ML noting that aflatoxins are genotoxic carcinogens and a public health issue and therefore levels should be set as low as reasonably achievable and, in their opinion, applying good practices, lower levels were achievable.</p>	<p>CAC46 (2023) Adopted ML of 20µg/kg for Ochratoxin A in Chili pepper, paprika, nutmeg and ML of 20µg/kg for Total Aflatoxins Chili pepper, nutmeg at step 5/8 (Applied to whole/ powder/ crushed /ground).</p>
CCCF17 (2024)	<p>Item 5: Maximum levels for lead in certain food categories (at Step 4) "<u>Spices, dried celery seeds</u>"</p>	<p>Reservation was submitted and a <u>proposal for an ML of 0.9 mg/kg</u> as this would be more appropriate <u>based on As Low as Reasonably Achievable (ALARA)</u> and the relevant data.</p>	<p>CAC47 (2024) Adopted ML of 1.5mg/kg for species, dried celery seeds at Step 5/8</p>

Committee	Agenda Item	Member/s Submitted Reservation and Rationale	CAC Final Decision
CCCF17 (2024)	Cont. Item 5: Maximum levels for lead in certain food categories (at Step 4) " <u>Spices, dried rhizomes, and roots</u> "	Reservation submitted explaining that considering the principle As Low as Reasonably Achievable (ALARA principle), and with a view of protecting consumer health, a lower ML of 1.5 mg/kg would be more appropriate on the basis of available data.	CAC47 (2024) Adopted ML of 2.0mg/kg for species, dried celery seeds at Step 5/8
CCCF17 (2024)	Cont. Item 5: Maximum levels for lead in certain food categories (at Step 4) " <u>Spices, dried bark</u> "	Reservation submitted <u>supporting that an ML of 2.5 mg/kg</u> was for dried bark but <u>could also support an ML of 2.0 mg/kg</u> .	CAC47 (2024) Adopted ML of 2.5mg/kg for species, dried celery seeds at Step 5
CCCF17 (2024)	Cont. Item 5: Maximum levels for lead in certain food categories (at Step 4) " <u>Spices, dried floral parts</u> "	Reservation submitted noted that considering <u>the ALARA approach and based on the relevant available data</u> for saffron and capers, <u>an ML of 1.0 mg/kg was considered more appropriate</u> .	CAC47 (2024) Adopted ML of 2.5mg/kg for species, dried floral parts at Step 5/8
CCCF17 (2024)	Cont. Item 5: Maximum levels for lead in certain food categories (at Step 4) " <u>Spices, dried Sichuan pepper and star anise</u> "	Reservation submitted noted that <u>based on data available a lower ML of 0.8 mg/kg</u> for star anise could be established. The Delegation further noted that while <u>they could not agree to an ML of 3.0 mg/kg for star anise</u> , however, they could support an ML of 3.0 mg/kg for dried Sichuan pepper.	CAC47 (2024) Adopted ML of 3.0mg/kg for species, dried Sichuan pepper and star anise at Step 5/8
CCCF17 (2024)	Cont. Item 5: Maximum levels for lead in certain food categories (at Step 4) " <u>Culinary herbs, dried</u> "	Reservation submitted noted that <u>based on the data available in the National Food Safety Authority database</u> , composed by over 1500 samples for dry culinary herbs, <u>a lower ML of 1.5 mg/kg</u> could be established for dried culinary herbs.	CAC47 Decision: Adopted ML of 2.5mg/kg for species, dried culinary herbs at Step 5