



JOINT FAO/WHO FOOD STANDARDS PROGRAMME EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION

Eightieth Session
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CCEXEC SUB-COMMITTEE ON THE APPLICATION OF THE STATEMENTS OF PRINCIPLE CONCERNING THE ROLE OF SCIENCE - UPDATE

Prepared by the Chairperson of the CCEXEC Sub-committee and the Codex Secretariat

1. INTRODUCTION

1.1 The 42nd Session of the Codex Alimentarius Commission (CAC42) endorsed the recommendation of the 77th Session of the Executive Committee of the Codex Alimentarius Commission (CCEXEC77) to establish a sub-committee of the CCEXEC on the application of the Statements of Principle Concerning the Role of Science (referred to as SoP from here on) with the following terms of reference (ToR): “To develop practical guidance for Codex Subsidiary Bodies and their chairpersons on the operationalisation of the Statements of Principle Concerning the Role of Science to allow Codex to set standards that are needed by Members and are based on science, while acknowledging different situations in different areas of the world and to complement the guidance provided in the Measures to Facilitate Consensus.”

1.2. To ensure transparency and inclusiveness in the process of developing any practical guidance, a Circular letter (CL) was issued in October 2019 to seek input from all Members on the scope of the work with a focus on the three main elements in the ToR namely: “practical guidance”, “operationalisation of the SoP”, and “a complement to the guidance on facilitating consensus”. A compilation of the replies was shared with the sub-committee and a summary presented to CCEXEC78¹. Following a physical meeting of the sub-committee immediately prior to CCEXEC78 and extensive discussion of this issue thereat, CCEXEC78 noted the progress made at the physical meeting of the sub-committee as contained in the Chairpersons Report² and requested that:

- i. the Codex Secretariat in collaboration with FAO and WHO develop a first draft of the practical guidance in accordance with the ToR of the sub-committee, having consulted the chairpersons of the Codex subsidiary bodies to obtain feedback on their understanding and application of the SoP;
- ii. the Codex Secretariat make available the draft guidance on the electronic discussion forum of the sub-committee in advance of the second physical meeting planned to take place immediately prior to CCEXEC79; and
- iii. the CCEXEC sub-committee consider the draft guidance at its second physical meeting (immediately prior to CCEXEC79) and advise CCEXEC79 on the next steps required to complete the work including steps to ensure the transparency of the process.

1.3. Shortly after that session the Codex meeting schedule for 2020 changed dramatically due to the COVID-19 pandemic and as noted by CAC43, there were some consequential delays and a need for the Codex Secretariat and Chairpersons of the sub-committees to prioritize efforts to ensure continuity of Codex standard setting work. Hence, it was not possible to deliver draft guidance for the consideration of the sub-committee to date. However, work on this activity has resumed and a short overview is provided below.

2. Consultation with the chairpersons of the Codex subsidiary bodies

2.1. A consultation with the chairpersons of subsidiary bodies was convened through a combination of online questions and an informal virtual meeting of chairpersons on 7 December 2020. This consultation provided an opportunity for chairpersons to share experiences on applying Codex procedures, particularly with regard to

¹ [REP20/EXEC1](#)

² [CX/EXEC CRD3](#)

reservations³ and consensus-finding and in particular on the approaches taken with regard to the application of the SoP in different committees. Some of the points to emerge from that discussion were:

- Chairpersons are generally comfortable with the application of Codex Procedures, including the SoP with the strong support of the Codex Secretariat.
- Seeking consensus is a fluid process and it is important that the Chairpersons have flexibility to work in different ways to achieve consensus.
- It was noted that it is difficult to develop guidance for every possible scenario and too much guidance will reduce the fluidity of the process and can ultimately make it more difficult to achieve consensus.
- The declaration of consensus is within the remit of the Chairperson and is determined based on the topic, nature of discussion, diversity of arguments etc. and cannot be quantified by a number/proportion of members
- There is no “one size fits all” approach when it comes to addressing reservations and applying the SoP, and the approach taken may have to be tailored to the committee and the topic. Examples were provided of the different approaches taken in different committees (e.g. use of notes in CCFA) and it was suggested that inclusion of case studies from different committees into the handbook for Chairpersons could be a valuable reference for the future.
- Discussions in Codex often include discussions of factual (risk assessment) and value-based arguments both of which can have a scientific basis (biological/chemical sciences and social sciences). However, the question to be considered is whether the issues raised are within the Codex mandate or not.
- Reservations provide a means by which discontent can be expressed, although the question was raised as to whether there is a need to further evolve the manner in which such an expression can be made.
- In terms of any guidance, no overwhelming need for this was expressed by chairpersons, but it was acknowledged that some simple guidance that could perhaps be included in the Chairperson Handbook might be useful. Regular meetings among chairpersons to share experiences and support from the Codex Secretariat may be more useful for chairpersons. Some simple guidance /clarification for the Membership could be useful.

3. Next steps by the Codex Secretariat

3.1. A clear message from the chairpersons was that Codex should not overcomplicate the role of the chairpersons with extensive guidance on application of the SoP. In this context, the Codex Secretariat noted that any guidance should be rather simple in nature which could serve as a clarification for all. Some options for chairpersons to use when applying the SoP could also be useful. In this regard, the Codex Secretariat will:

- Carry out a review of approaches applied by different committees and in particular the use of notes/footnotes to facilitate progression of standards with the objective of making a recommendation on whether and how such approaches could be used in operationalization of the SoP.
- Provide guidance on the use of reservations and in particular consider ways in which reservations, particularly to final adoption of texts, could be made more visible and perhaps more clearly identify when a Member has not supported adoption of a particular standard. An option in this regard could be the development of an online searchable registry of reservations to standards to easily identify if there were any reservations expressed at the time of final adoption of a standard and the basis thereof.

3.2. It has also been noted that the SoP contain terminology which is similar although it is not always clear if the terms are synonymous or not, e.g. “other legitimate factors”, “legitimate concerns”, “other considerations”, “consideration of other factors”, “other factors”. Further clarity on these terms as well as the term “abstain from acceptance” in Statement 4 could be helpful.

3.3. Based on the above, the Codex Secretariat will lead the development of a simple guidance document to be submitted to the sub-committee well in advance of the next CCEXEC to allow the sub-committee time to consider the guidance and present a proposal to CCEXEC81.

³ The term reservation is not directly referred to in the Codex Procedural Manual. Rather it is indicated that delegations who wish their opposition to a decision of the Committee to be recorded may do so, by asking for a statement of their position beginning: “The delegation of X reserved its position” to be contained in the report of the Committee. This is what is commonly referred to as a reservation in Codex.

4. Request to CCEXEC

4.1. CCEXEC80 is requested to review the intended approach and provide any feedback to the Codex Secretariat for consideration in the development of the guidance proposed above.

4.2. Considering the delay in the work due to the COVID-19 pandemic, CCEXEC is requested to extend the mandate of the sub-committee to CCEXEC81.