

# CODEX ALIMENTARIUS COMMISSION



Food and Agriculture  
Organization of the  
United Nations



World Health  
Organization

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Agenda Item 10

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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS

#### Twenty-Sixth Session

### DISCUSSION PAPER ON NEW WORK PROPOSAL FOR DEVELOPMENT OF *GUIDANCE ON APPEALS MECHANISM IN THE CONTEXT OF REJECTION OF IMPORTED FOOD*

(Prepared by India)

The main objective of food control authorities is to protect public health and to prevent economic loss & trade disruption, thereby ensuring reliable global food supply chain.

Border rejection of consignments is one of the critical issues in the global food trade and sometimes rejection could be due to reasons other than food safety. There could be situations when food is rejected because it fails to meet national standards of the importing country but conforms to international standards. Sometime, rejection could be due to use of different analytical methods by different countries. Therefore, any decision on destruction, discarding or alternative (non-food) use of food that is safe and nutritious for human consumption, on account of rejection of consignment, may eventually lead to food waste. Although each individual case may represent a huge economic cost and food waste for the involved exporters, the main problem associated with border rejections is still the overall loss of trust and confidence by buyers in the safety and quality of the produce delivered by exporting country.

The Codex "*Guidelines for Food Import Control Systems (CAC/GL 47-2003)*" requires under paragraph 29 that there should be an appeal mechanism and/or opportunity for review of official decisions on consignments. The existing Codex text *Guidelines on Exchange of Information between Countries on Rejection of Imported Food (CAC/GL 25-1997)* provide general guidance on exchange of information between countries during rejection of imported food, however, specific guidance on appeal mechanism during rejection is not available.

At its 20th Session in 2013, the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS20) recognised that emerging global challenges were impacting approaches and technologies relating to food safety controls, and requested a discussion paper be prepared to enable CCFICS to take a strategic approach to its area of work. At its 21st Session (2014), the Committee considered the discussion paper (CX/FICS 14/21/7) and agreed that it be retained as a standing item and updated ahead of each CCFICS meeting. At its 23rd Session (2017), the Committee considered the updated discussion paper (CX/FICS 17/23/9) comprising two distinct components: Appendix A, presenting emerging global issues relevant to the work of CCFICS; and Appendix B, outlining a framework for the preliminary assessment and identification of priority areas for CCFICS. The Committee agreed to further work to update Appendix A to take into account members' comments for consideration at CCFICS24.

Appendix A of Agenda Item 9 (CX/FICS 21/25/9) of 25<sup>th</sup> Session of Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS25) indicated "Appeal mechanism in the context of rejections" as one of the emerging issue. The delegation of India expressed its intent to develop a discussion paper along with a project document on guidance on appeals mechanism in the context of rejection of imported food for consideration by CCFICS26, which was welcomed by CCFICS25.

The outline of the proposed guidance would be as below:

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- Introduction
  - Key definitions
  - Sharing decision of rejection
  - Submission of Appeal by exporting country
  - Handling of Appeal by importing country and
  - Communicating decision on the appeal

Accordingly, India has prepared this discussion paper along with project document for consideration by this committee.

**Annex I****Project document on development of "Guidance on appeals mechanism in the context of rejection of imported food"****1. Purpose and Scope of Proposed guidance**

The purpose of the work is to provide guidance to competent authorities of importing and exporting countries and industry on the procedure and mechanism of appeal in the situation of rejection of the imported food in order to ensure fair practises in the food trade. The scope of the guidance is to develop step-by-step procedures to be followed by the competent authorities in case a food consignment is rejected by the importing country and exporting country wish to file appeal against the decision of rejection. This includes the communication of decision of rejection, appeal from exporting country to importing country, consideration of the appeal by importing country and communicating the decision on the appeal to the exporting country.

**2. Relevance and Timeliness**

The main objective of food control authorities is to protect public health and to prevent economic loss & trade disruption, thereby ensuring reliable global food supply chain. Border rejection of consignments is one of the critical issues faced by exporters and sometimes rejection could be due to reasons other than food safety. There could be situations when food is rejected because it fails to meet national standards of the importing country but conforms to international standards and in such cases, the option of withdrawing the rejected consignment should be considered. Destruction, Discarding or alternative (non-food) use of food that is safe and nutritious for human consumption, on account of rejection of consignment, may also fall in the category of food waste.

Although each individual case may represent a huge economic cost and food waste for the involved exporters, the main problem associated with border rejections is still the overall loss of trust and confidence by buyers in the safety and quality of the produce delivered by exporting country. Any final decision on the rejection of the food consignment by importing country need to be taken in a transparent manner by providing ample opportunity to exporting country.

The Codex "*Guidelines for Food Import Control Systems (CAC/GL 47-2003)*" requires under paragraph 29 that there should be an appeal mechanism and/or opportunity for review of official decisions on consignments. The existing Codex text (CAC/GL 25-1997) provide general guidance on exchange of information between countries during rejection of imported food, however, specific guidance on appeal mechanism during rejection is not available. The possibility of reducing food waste with the availability of such guidance also has the potential to contribute to other SDGs, including the Zero Hunger goal (SDG 2), which calls for an end to hunger, the achievement of food security and improved nutrition, and the promotion of sustainable agriculture. Therefore, the proposed work, on guidance on appeal mechanism in the context of rejection of imported food, is a timely endeavour.

**3. The main aspects to be covered**

The work will include development of guidance on appeal mechanism in the context of rejection of food consignment by importing country with a goal to provide opportunity to exporting country to present their case and decisions are taken in transparent manner without any compromise with food safety and fair trade. The guidance may include the following elements: (1) Key definitions related to appeal mechanism (2) Role and responsibilities of importing country while communicating decision of rejection of imported food (3) Guidance on mechanism for appeal by exporting country (4) Procedure for handling appeal of exporting country and (5) Guidance on communicating decision on the appeal to export country. The existing CCFICS text will be examined and reviewed to avoid the duplication of the text.

**4. An assessment against the criteria for the establishment of Work Priorities  
General Criterion**

The proposed work will facilitate trade of safe food while ensuring that decision on rejection of food consignment are taken in transparent manner by providing due opportunity to exporting country to promote fair trade.

#### **Criteria applicable to General Subjects**

**a) *Diversification of national legislations and apparent resultant or potential impediments to international trade***

Some of the countries in their legislation have the provisions of appeal against the decision of rejection of imported food consignment. Development of Codex guidance in this area would help in achieving harmonization at global level.

**b) *Scope of work and establishment of priorities between the various sections of work***

Refer to scope of work above

**c) *Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body (ies)***

Not applicable

**d) *Amenability of the subject of the proposal to standardisation***

Guidance on appeal mechanism will bring transparency and uniformity in decision making process of rejection of food consignment.

**e) *Consideration of the global magnitude of the problem or issue***

Rejection of food consignment is a major socio-economic burden, particularly in developing countries and any wrong decision of rejection may lead to food wastage.

#### **5. Relevance to Codex strategic objectives**

The proposed work is directly related to the purpose of the Codex Alimentarius Commission, according to its statutes, to protect the health of the consumers and ensure fair practices in the food trade. Further, the work relates to the first Strategic Goal of the Codex Alimentarius Commission's Strategic Plan 2020-2025 to "address current, emerging and critical issues in a timely manner", and is consistent with Objective 1.1 "identify needs and emerging issues". This guidance is relevant to the needs of the Members and will improve the ability of Codex to develop standards relevant to the needs of its members. It is also consistent with Objective 4.2 "Increase sustainable and active participation of all Codex Members" through participation in the work of CCFICS and the related working groups.

#### **6. Information on the relation between the proposal and other existing Codex documents**

Based on the review of existing Codex text it is observed that the Codex "*Guidelines for the exchange of information between countries on rejection of imported food (CAC/GL 25-1997 Revised in 2016)*" contains guidance on basic information exchange between countries on rejections of imported food where the reason for the rejection is related to food safety and fair practices in food trade and specifies a standard format for such information exchange. The proposed guidance will specify the procedure for appeal by exporting country & its consideration by importing country, once information exchange on rejection of imported food in terms of CAC/GL 25-1997 has been done by the exporting country to importing country. Therefore, the proposed guidance will elaborate on the appeal mechanism as specified in CAC/GL 47-2003.

#### **7. Identification of any requirement for and availability of expert scientific advice**

Not required.

#### **8. Identification of any need for technical input to the standard from external bodies so that this can be planned for:**

Not required at this stage.

## 9. Completion of the new work and other conditions

Subject to the Codex Alimentarius Commission approval at its 46<sup>th</sup> Session in 2023, it is expected that the new work can be completed within two or three sessions of CCFICS.

### CCFICS criteria to assist the Committee prioritise the development of new work

- Justification for new work, including how the area of work may fill a gap in the current CCFICS suite of texts, or provide clarity to them.

The proposed guidance will elaborate on the appeal mechanism as specified in *CAC/GL 47-2003* and therefore will the gap in terms of requirement specified in the exiting CCFICS text.

- Whether the work will amend existing CCFICS texts or develop new CCFICS text.

Both the options are open at this stage. The proposed guidance could be a new standalone document or could be merged with *CAC/GL 47-2003* as the proposed text involve the successor steps in appeal after decision of rejection.

- The scope of the work and the extent to which the issue impacts on CCFICS members and international trade.

The scope of the guidance is to develop step-by-step procedures to be followed by the competent authorities in case a food consignment is rejected by the importing country and exporting country wish to file appeal against the decision of rejection. This includes the communication of decision of rejection, appeal from exporting country to importing country, consideration of the appeal by importing country and communicating the decision on the appeal to the exporting country.

- The results, including rationale, from the self-assessment against the Criteria for Evaluating and Prioritising New Work in Appendix B.

Criterion	Rating	Rationale
Relevance to CCFICS mandate	Yes	Proposed work is directly relevant to CCFICS mandate.
Immediate Urgency	High	Rejection of consignments is great concern in global food trade and any guidance to address the concern will help in trade facilitation and reduction in food wastage.
Impact on Food Safety	Low	Low bearing to food safety
Impact on Fair Trade Practices	High	Guidance will provide fair level of play and increase transparency in decision making.
Impact on Trade Facilitation	High	Increase confidence between trading partners with transparency