

# CODEX ALIMENTARIUS COMMISSION



Food and Agriculture  
Organization of the  
United Nations



World Health  
Organization

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Agenda Item 6

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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

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

#### Twenty-Sixth Session

#### PROPOSED DRAFT GUIDANCE ON THE PREVENTION AND CONTROL OF FOOD FRAUD

(Comments of Australia, Burundi, El Salvador, Ghana, Iran, Mauritius, Morocco, Republic of Korea, Thailand and Uganda)

#### Australia

##### General comments:

Australia would like to extend appreciation to the Chair and Co-Chairs for the ongoing work to develop the draft guidelines. Australia also recognises that a number of our last suggested edits have been incorporated, and the language throughout the draft text has become less prescriptive. We would like to thank the Co-Chairs for this. Australia believes the draft guidance is in good stead and would like to support the guidelines to progress through the step process, however, would like to see a few adjustments in the guidelines as drafted to be comfortable with progression. This includes removal of the inclusion of feed for food producing animals which we feel to be out of scope for the purposes of this draft guideline. Australia notes the importance of sourcing requirements, however, believes that the guidelines as written do not apply to feed as they are for food production.

##### Section 1

5. The prevention and control of food fraud is a shared responsibility, with FBOs ~~are~~ responsible for producing safe and suitable food, and presenting it in a manner so as not to deceive consumers. Thus, the FBOs should understand their supply chains and should have effective measures in place to detect, prevent, mitigate and control food fraud where appropriate.

6. Competent authorities ~~have~~ **provide** regulatory oversight ~~responsibility~~ and an important role in increasing awareness of food fraud prevention by building partnerships and collaborating with industry, academia, and other stakeholders to detect, prevent, mitigate and control food fraud.

Australia has noted minor change to the above text, editorial in nature to support readability of the document. Australia would also question whether Point 7 is required, as described the point returns to why the text was needed by codex Members and could be duplicative of Point 9.

Australia would appreciate further clarification on the inclusion of feed for food producing animals. We believe that this is outside the scope of the document, which as written focuses on the prevention and detection within food safety systems, not within animal feed systems. The reference to feed for food producing animals does not fit within the draft guidelines as written and the text would therefore need to be broadened out to appropriately address animal feed systems, and would require further consultation from Australia's perspective with industry producers, other agencies and/or regulators, and potentially the World Organisation for Animal Health (WOAH). Australia notes that there may be several differences between countries on the responsibility of sourcing control and how these are managed through feed safety systems. For example, a Food Business Operator (FBO) has control over sourcing however may not have control over production systems. Australian sourcing controls and traceability systems mitigate the risks to human public health by monitoring and preventing animal diseases and residues before they can enter the human food chain. Australia notes that there is existing guidance under Codex that relates feed for food producing animals such as the Taskforce in Animal Feed, and the *Guidance for Governments on Prioritising Hazards in*

*Feeds* (CAC/GL81-2013). Australia understands the in CAC/GL81-2013, hazards which may adversely affect animal health but have no impact on food safety are not considered within the scope of Codex. Australia would need to conduct further consultation with other agencies to see whether we could support guidance being developed.

Australia supports the intent of the second footnote. Intellectual property, including geographical indicators, are outside the mandate of CCFICS. The guidelines should be focused on the prevention of the deliberate act of food fraud activities and should not be targeted to enforcing claims which are not regulated or supported globally. The inclusion of intellectual property as in scope could result in unnecessary and unjust restrictions on trade, where there is no impact on food safety.

Australia supports the inclusion of 9bis.bis as any intention to cause harm would be considered a criminal matter and outside the mandate of Codex. Australia has also provided one small editorial amendment for readability.

## Section 2: Purpose / Scope

9. The purpose is to provide guidance to ~~competent~~ food safety authorities, other relevant agencies, and FBOs on the detection, prevention, mitigation and control of food fraud to help protect the health of consumers, and to ensure fair practices in food trade ~~including 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<sup>1</sup>.

9bis. [It should be noted that the investigation and prosecution of food fraud offenses may be dealt with under criminal law, which is outside the scope of this guideline.]

9bis.bis deleted

## Section 3: Definitions

Australia is satisfied with the definitions as currently defined, noting that some definitions have been removed from the last version of the draft guidelines. However, Australia's preference is to **not include** the definition of food fraud vulnerability assessments, particularly as it is not used or explained further throughout the draft text. To ensure the draft guidelines are suitable for all Members and their NFCS, Australia would recommend that the guidelines not define specific tools, technologies or approaches, as it should be a country's choice to conduct a risk assessment, as supported by Principle 3 of the draft text acknowledging that legal frameworks will differ from country to country.

However, Australia acknowledges that the definition is largely supported by other members of the EWG. As such, Australia would be comfortable with inclusion of this definition with acknowledgement that this is one tool and may only be used where determined as appropriate within the NFCS.

## Section 4: Types of food fraud:

Australia is comfortable with the types of food fraud, as described.

## Section 5: Principles

### Principle 1: Protection of Consumers

- Systems to address food fraud should ~~be in place to protect~~ **consider** the health of consumers ~~and to~~, maintain **and enhance** consumer confidence in the safety, integrity, authenticity, suitability, and quality of food.

### Principle 2: Protect the Integrity of the Food Supply Chain and Legitimate FBOs

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- Food fraud controls and surveillance systems should ~~be in place~~ **consider the protection of** the integrity of the entire food supply chain, which also helps to protect ~~legitimate~~ FBOs.

### Principle 3: Legal Foundation

- The government within each country should ~~have in place~~ **consider an** appropriate legal framework to address food fraud.

### Principle 4: Coordination, Cooperation, and Collaboration Between Competent Authorities

- Competent authorities should **consider operating** in a coordinated, cooperative, and collaborative manner to detect, prevent, mitigate and control food fraud.

Australia would appreciate clarification from the Co-Chairs with the intent of the principles, noting that there may be some duplication between the first three. Australia would reiterate previous comments with regards to encouraging less prescriptive language and has provided suggested edits to align language throughout the draft text.

## Section 6: Roles and Responsibilities

11. **A Relevant governmental body has the a role** and responsibility to, as appropriate:
  - a. Establish or maintain legal structures and requirements to detect, prevent, mitigate and control food fraud
  - b. Empower competent authorities to control, investigate and establish sanctions to deter and dissuade food fraud
12. The competent authorities have the role and responsibility to, as appropriate:
  - a. Establish or maintain oversight programs to detect, prevent, mitigate, and control food fraud.
  - b. Develop or maintain mechanisms/platforms to better detect food fraud.
  - c. Build partnerships and collaborations with other governments, industry, academia and other stakeholders to combat food fraud.
  - d. Communicate with stakeholders and other government authorities, as needed.
  - e. Notify any potentially impacted countries when incidents of food fraud are identified or **suspected that may have an impact on food safety**.

Australia has provided editorial changes for consideration. Australia questions the need for Point B in square brackets, as the responsibility may already be covered by existing items, for example paragraph 13c and 13e.

## Section 7: Relevant Activities for Competent Authorities

16. Competent authorities may consider establishing procedures to receive and evaluate reports of food fraud, **including for protected persons acting as “whistleblowers”**, and determine appropriate follow-up, consistent with the food safety risk identified and national priorities.

### Deleted 21bis

Australia would reiterate its recommendation provided to Co-Chairs during the Workshop in February 2023 that paragraph 21 bis would be best incorporated under paragraph 16. Australia has provided the suggested amendment for consideration

## Section 8: [Cooperation] [Collaboration] and exchange of information between competent authorities

24. Competent authorities ~~should~~ **are encouraged to** cooperate [collaborate] and exchange information with the relevant competent authorities in situations where food fraud is suspected or identified. 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.

**25. The Early exchange of information should be made as early as possible is desirable,** recognizing that the initial information may often be incomplete and more detailed **information will** can 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.

26. Competent authorities may benefit from establishing appropriate information exchanges with relevant enforcement bodies and agencies, including those responsible for dealing with criminality. In establishing such **exchanges**, 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.

Australia has provided changes for consideration to further clarify the meaning of the relevant activities.

## Burundi

Burundi appreciates the work done by the EWG chaired by the United States of America and co- chaired by China, European Union, Islamic Republic of Iran, and the United Kingdom.

Burundi supports the adoption of the guidelines to step 5/8, and recommends taking into consideration the comments raised below.

### Section 2: Purpose/Scope

**Comment:** 9bis and 9 bis.bis : Burundi proposes that 9bis and 9 bis.bis to be removed from the document or be captured as a footnote for information purpose.

**Justification:** 9 bis and 9bis.bis is outside the scope of these guidelines

### Section 2: para 9 footnote 3

**Comment:** Burundi supports retention of footnote.

**Justification:** Matters of intellectual property rights are diverse and may not fall within the jurisdiction of the NFCS.

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### Section 2: Definitions

**Comment:** Burundi proposes deletion of the definition of Food Fraud Vulnerability Assessment.

**Justification:** Food Fraud Vulnerability Assessment has not been used in the main text.

### Section 2 Para 9

**Comment:** Burundi proposes to delete 'including feed for food producing animals' at the end and rearrange for clarity.

**Justification:**To read as 'The purpose is to provide guidance to competent food safety authorities, other relevant agencies, and FBOs on the detection, prevention, mitigation and control of food and feeds for food producing animals fraud to help protect the health of consumers, and to ensure fair practices in food trade.'

### Section 6: Roles and Responsibilities 12c

**Comment:** Burundi proposes 12c to read "Build partnerships and collaborations with **relevant**government **authorities**, industry, academia and other stakeholders to combat food fraud."

**Justification:** This makes it clear that only relevant stakeholders are to be considered in collaborations. It also puts emphasis on the constitutional government authorities to be referred to in this context.

### **Section 6: Roles and Responsibilities 13b**

**Comment:** Burundi proposes deletion of para 13b

**Justification:** The has been elaborated well in para 13e and has covered main aspects of food fraud.

### **Section 7: Relevant Activities for Competent Authorities para 15**

**Comment:** Burundi proposes that the word legislative should be replaced with legal.

**Justification:** To be consistent with principle 3 section 5.

### **Section 7: Relevant Activities for Competent Authorities para 21**

**Comment:** Burundi proposes to replace 'others' with relevant and add 'Authorities' after the government to read "Competent authorities may consider establishing appropriately secure communication channels with **relevant** government **authorities**, 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."

**Justification:** This makes it clear that only relevant stakeholders are to be considered in collaborations. It also puts emphasis on the constitutional government authorities to be referred to in this context.

### **Section 7: Relevant Activities for Competent Authorities para 21 bis**

**Comment:** Burundi proposes to amend para 21 to read as follows "Competent authorities may consider establishing appropriately secure communication channels with other governments, FBOs, academia, **whistle-blowers** 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." and delete para 21 bis.

**Justification:** Secure communication channels developed by competent authorities will promote the general protection of whistle-blowers since protecting an individual is outside their mandate.

### **Section 7**

**Comment:** Burundi proposes the Introduction of the word 'groom' which will provide knowledge and guidance to the whistle blowers on information of food fraud incidences.

**Justification:** To read as 'Competent authorities should consider developing tools to groom and protect persons acting as "whistle-blowers" reporting such incidents'

### **Section 8: para 24**

**Comment:** Burundi proposes that title should include both cooperation and collaboration and to read, 'Cooperation, Collaboration and exchange of information between competent authorities.

**Justification:** Competent Authorities may decide to either cooperate and/or collaborate depending on the task.

### **25 bis**

**Comment:** Include this para as part of the document due to its relevance.

## El Salvador

**Antecedentes:** La Ley de Creación del Sistema Salvadoreño para La Calidad, faculta al Organismo Salvadoreño de Reglamentación Técnica-OSARTEC, a actuar como el Punto de Contacto del Codex Alimentarius en El Salvador a partir del mes de septiembre del año 2011.

### Tema 6: Anteproyecto de Directrices sobre la prevención y el control del fraude alimentario

#### Comentarios Generales:

El Salvador agradece el documento remitido por la Secretaría del Codex Alimentarius y preparado por el Grupo de trabajo por medios electrónicos presidido por los Estados Unidos de América y copresidido por China, el Reino Unido, la República Islámica de Irán y la Unión Europea.

El Comité Técnico Nacional sobre Sistemas de Inspección y Certificación de Importaciones y Exportaciones de Alimentos, ha analizado la propuesta elaborada por el GTe, al respecto de las Orientaciones sobre la Prevención y el Control del Fraude Alimentario.

A continuación, se presentan comentarios de carácter general para consideración del CCFICS26, adicionales a los remitidos en respuesta a la carta circular CL 2023/11/OCS-FICS, disponibles en documento CX/FICS 23/26/6 Add.1.

#### Sección 5: Principios

El Salvador está de acuerdo con los principios 3 y 4 de la sección 5, tal cual como se plantean en el documento, según propuesta del GTe.

#### Sección 6: Funciones y responsabilidades

El Salvador está de acuerdo con los párrafos 11 y 12, tal cual como se plantean en el documento, según propuesta del GTe.

El Salvador está de acuerdo con los literales c, d y e del párrafo 13, tal cual como se plantean en el documento, según propuesta del GTe.

#### Sección 7: Actividades pertinentes para las autoridades competentes

El Salvador está de acuerdo con los párrafos 14, 18, 21bis y 22, tal cual como se plantean en el documento, según propuesta del GTe.

#### Sección 8: [Cooperación] [colaboración] e intercambio de información entre autoridades competentes

El Salvador está de acuerdo con término cooperación, con el párrafo 25 bis y 26, tal cual como se plantean en el documento, según propuesta del GTe.

#### Comentarios Específicos:

A continuación, se presentan comentarios de carácter específico para consideración del CCFICS26.

#### Sección 4: Tipos de fraude alimentario

##### Falsificación:

- El Salvador propone realizar los siguientes cambios identificados en el texto tachado y en negrita. Se considera que un producto de imitación no representa un fraude siempre y cuando la legislación del país lo permita, por lo tanto, se propone hacer referencia al alimento como tal.

“Falsificación: ~~Proceso de Producir~~ **Elaborar** una alimento ~~imitación~~ **no autorizado**, de ~~productos~~ **alimentos**, **que pretende engañar al consumidor.**”

#### Sección 6: Funciones y responsabilidades

##### Párrafo 13, literal a):

- El Salvador propone cambiar cadena de distribución por cadena de suministros, para favorecer la interpretación de la disposición. Según texto tachado y en negrita.

“Conocer la cadena de **suministro** ~~distribución~~ de alimentos y los productos/ingredientes/envasados susceptibles al fraude alimentario.”

#### **Párrafo 13, literal b):**

- El Salvadore propone los cambios identificados en texto tachado, subrayado y en negrita a fin de favorecer la comprensión y sentido del texto.

“~~[Contar con~~ **Disponer de** medidas para mitigar el riesgo planteado **asociado a** ~~per~~ productos o ingredientes alimenticios no auténticos y asegurarse de que la naturaleza, inocuidad, calidad y sustancia se representan con precisión.]”

### **Sección 7: Actividades pertinentes para las autoridades competentes**

#### **Párrafo 15:**

- El Salvador propone modificar el párrafo como se presenta en texto tachado y en negrita, con el objetivo de guardar congruencia con lo establecido en la sección 4.4 verificación y examen del sistema de CXG 82-2013 Principios y directrices para los sistemas nacionales de control de los alimentos.

“~~Las autoridades competentes podrían considerar el examen de~~ **Evaluar** sus SNCA para determinar si el sistema tiene un adecuado marco ~~[legal][legislativo]~~ y **reglamentario** ~~normativas y procedimientos adecuados~~ para monitorear, detectar, prevenir, controlar y responder a los incidentes de fraude alimentario y fortalecer el comercio equitativo. Dichas normativas podrían abarcar requisitos legales, incluidas las sanciones y las responsabilidades del OEA relacionadas a la integridad y autenticidad alimentaria.”

#### **Párrafo 16:**

- El Salvador propone modificar el párrafo como se presenta en texto tachado y en negrita para favorecer el sentido y comprensión de la disposición.

Las autoridades competentes podrían considerar ~~el establecimiento~~ **establecer** de procedimientos para recibir y evaluar informes sobre el fraude alimentario y determinar un seguimiento adecuado, coherente con el riesgo identificado de inocuidad alimentaria y las prioridades nacionales.

#### **Párrafo 17:**

- El Salvador propone el cambio de forma identificado en texto en negrita y subrayado.

Las normativas, procedimientos y los requisitos reglamentarios relacionados a la prevención y el control del fraude alimentario deben ser transparentes y basados en el riesgo.

#### **Párrafo 19:**

- El Salvador propone modificar el párrafo como se presenta en texto tachado y en negrita para favorecer el sentido y comprensión de la disposición.

Las autoridades competentes podrían considerar **establecer** ~~el establecimiento de~~ actividades de vigilancia para detectar el fraude alimentario. Estas actividades pueden realizarse de manera rutinaria o en respuesta a un riesgo específico que ha sido identificado.

#### **Párrafo 20:**

- El Salvador propone realizar las siguientes modificaciones, en el texto tachado y en negrita. En vista que dependerá de las atribuciones de las autoridades competentes, el tipo de orientación práctica que puede proveer a los OEA.

Las autoridades competentes - **de acuerdo con sus atribuciones**- pueden considerar la provisión de

orientación práctica a los OEA y otras partes interesadas sobre la manera de abordar el fraude alimentario. ~~Dicha orientación podría incluir recursos y acceso a herramientas sobre cómo elaborar procedimientos para detectar, prevenir, mitigar y controlar el fraude alimentario.~~

**Párrafo 21:**

- El Salvador propone modificar el párrafo como se presenta en texto tachado y en negrita para favorecer el sentido y comprensión de la disposición.

Las autoridades competentes podrían considerar **establecer** ~~el establecimiento de~~ vías seguras de comunicación con otros gobiernos, los OEA, el sector académico y otras partes interesadas a fin de obtener información sobre situaciones relacionadas al fraude alimentario y compartir el conocimiento y experiencia pertinentes, y las herramientas para combatir el fraude alimentario, tales como las normas alimentarias y los métodos analíticos.

**Párrafo 23:**

- El Salvador propone modificar el párrafo como se presenta en texto tachado y en negrita para favorecer el sentido y comprensión de la disposición.

Las autoridades competentes podrían considerar ~~el~~ **establecer** ~~establecimiento de~~ mecanismos de comunicación para una notificación oportuna a las partes interesadas sobre los incidentes de fraude alimentario, según corresponda.

## Ghana

### Section 2 – Scope/Purpose

**Position:** Ghana proposes a separation of the Purpose from the Scope.

We also propose that, 9bis and 9 bis bis are captured as footnotes for information.

We support the retention of footnote 3.

**Rationale:** The scope and purpose have different functions in a Standard or Guideline and therefore the need for separation to give clarity to the standard as well as provide clarity on the scope of the guidelines.

## Iran

### Section 1: Preamble / Introduction

8. Work in the area of food fraud is widespread in a range of international organizations, [some of which are noted in Annex 2]. ~~Countries may wish to consider work from these and other organizations, as appropriate, when developing tools and strategies to detect, prevent, mitigate, and control food fraud. and the activity of these and other organizations in the field of developing tools and strategies to detect, prevent mitigate and control food fraud should be considered by Codex member.~~ Strategies of organizations related directly or indirectly to food fraud should be considered as a developing tools in order to detect, prevent, mitigate and control food fraud.

### Section 5: Principles

#### Principle 1: Protection of Consumers

- ~~Systems to address food fraud should be in place to protect the health of consumers and to maintain consumer confidence in the safety, integrity, authenticity, suitability, and quality of food.~~ **Proceedings to create organizations related to food fraud to protect the health and safety of consumers and food quality and safety guarantee to consumer.**

#### Principle 3: Legal Foundation

- The government within each country should have in place an appropriate legal framework to address food fraud .

**dissatisfaction and consumer complaints.**



#### Principle 4: Coordination, Cooperation, and Collaboration Between Competent Authorities

Competent authorities should operate in a coordinated, cooperative, and collaborative manner to detect, prevent, mitigate and control food fraud **at the domestic and international level**

#### Section 6: Roles and Responsibilities

11. A relevant governmental body has the role and responsibility to, as appropriate:
  - a. Establish or maintain legal structures and requirements to detect, prevent, mitigate and control food fraud
  - b. Empower competent authorities to control, investigate and establish sanctions **and apply strict rules** to deter and dissuade food fraud
12. The competent authorities have the role and responsibility to, as appropriate:
  - a. Establish or maintain oversight programs to detect, prevent, mitigate, and control food fraud.
  - b. Develop or maintain mechanisms/platforms to better detect food fraud.
  - c. Build partnerships and collaborations with other governments, industry, academia and other stakeholders **exchange information on food fraud** ~~to combat food fraud.~~
  - d. Communicate with stakeholders and other government authorities, as needed.

**the concept of this phrase has been mentioned in the previous option. It is better to omit.**

- e. Notify any potentially impacted countries when incidents of food fraud are identified or suspected.
- f. f. Identification the possible agreements between food manufacturers on the quality of intermediate goods in food industries to reduce cost of finished products.

**Description: Note that traceability of food fraud in situations that there is not any complaint or enough information exchanged (especially in intermediate food products) since both sides of deal make profits, is much more complicated and may threaten food safety.**

13. FBOs have the role and responsibility to, as appropriate:
  - a. Understand their supply chain and which products/ingredients/packaging **Processing and even distribution of final products** in it may be susceptible to food fraud.
  - b. [Have measures in place to mitigate the risk that the food products and ingredients are not authentic and ensure **that the nature, safety, quality, and substance are accurately represented.**] **Having full knowledge of Hazard Analysis and Critical Control Points (HACCP) System and creating the HACCP team for establishing a system for monitoring to prevent and control food fraud.**
  - ❖ c. **For example: inspection plans at reception step, correct traceability of raw materials, calibration plans for equipments , staff training**
  - c. Represent food for sale in a manner that does not deceive or mislead consumers.
  - d. Inform the competent authority when they detect or suspect food fraud.
  - e. Take reasonable precautions to detect, prevent, mitigate, and control food fraud.

**Section 8: [Cooperation] [Collaboration] and exchange of information between competent authorities**

24. Competent authorities should cooperate [collaborate] and exchange information with the relevant competent authorities in situations where food fraud is suspected or identified. 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. **In international agro-food trade, whenever non-compliant product distributed to other countries, informing should be done widely for prevention of global trade of unsatisfactory food.**

## Mauritius

### General Comments:

Mauritius thanks the United States of America (Chair) and China, EU, Iran and the United Kingdom (Co-chairs) for the concerted effort to prepare the proposed draft guidance on the Prevention and Control of Food Fraud. While Mauritius supports advancement of the proposed Draft Guidance on the Prevention and Control of Food Fraud in the Codex step process, we would like the committee to consider the following comments:

Issue 1: Section 2 – Scope/Purpose (Footnote 3)

Mauritius supports retention of footnote 3.

Rationale: Issues of intellectual property rights are diverse and may not fall within the jurisdiction of a National Food Control System.

Section 2: Purpose / Scope 9. “The purpose is to provide guidance to competent food **safety** authorities”, replace “safety” with “control”

Section 2 - 9bis and 9 bis-bis

Mauritius recommends that 9bis and 9 bis bis be captured as footnotes for information.

Rationale: To provide clarity on the scope of the guidelines.

Issue 3: Section 3 - Definitions of Food Fraud Vulnerability and Food Fraud Vulnerability Assessment  
Mauritius suggests that the two terms be deleted.

Rationale: The Food Fraud Vulnerability and Food fraud Vulnerability Assessment are not used in the main text. Furthermore, the definition for Food Fraud Vulnerability Assessment provided in the draft guidance goes beyond assessment and includes aspects of risk management vis-a-vis mitigation and control measures.

Section 5: principles

Principle 2: Protect the Integrity of the Food Supply Chain and Legitimate FBOs

- Food fraud controls and surveillance systems should be in place to protect the integrity of the entire food supply chain, which also **helps** to protect legitimate FBOs.

“helps” to be replaced with “help”, assuming that the phrase “which [...] pertains to food fraud controls and surveillance systems

Section 6 – Roles and Responsibilities (12 c)

It is proposed to replace “other” with “relevant” and add “authorities” after government to read: c) Build partnerships and collaborations with relevant government authorities, industry, academia and other stakeholders to combat food fraud.”

Rationale: To lay emphasis on the relevant stakeholders to be considered in the course of the collaboration as well as refer to government authorities which are institutional.

#### Section 6 – Roles and Responsibilities (12 d)

Mauritius proposes the rewording of the para to read: d) Communicate with relevant stakeholders including government authorities when incidents of food fraud are identified or suspected.”

Rationale: To provide clarity on when competent authorities need to communicate.

#### Issue 6: Section 6 – Roles and Responsibilities (Para 13 b)

Mauritius proposes deletion of para 13 b) and modification of 13 e) to read: e) Establish and implement measures to detect, prevent, mitigate, and control food fraud. Rationale: The amended text in 13 e) covers the broader aspects of food fraud.

#### Section 7 – Relevant Activities for Competent Authorities (Para 15)

Mauritius proposes the use legal instead of legislative. Rationale: To be consistent with principle 3 in section 5 of this draft guideline.

#### Section 7 – Relevant Activities for Competent Authorities (Para 21 & 21 bis)

Mauritius proposes restructuring the sentence and inclusion of whistleblowers amongst the relevant stakeholders to read: “Competent authorities may consider establishing appropriately secure communication channels with relevant stakeholders such as government authorities, FBOs, academia and whistle-blowers 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.” Rationale: i) To lay emphasis on the relevant stakeholders to be considered in the course of collaboration as well as refer to government authorities which are institutional. ii) The best tool for protecting a whistleblower is by securing the channels of communication as provided for in Para 21.

#### Section 8 Title – [Cooperation] [Collaboration] and exchange of information between competent authorities and Para 24

Mauritius proposes that cooperation and collaboration should both be used in the section’s title to read ‘Cooperation, Collaboration and exchange of information between competent authorities’. Rationale: Competent Authorities may choose to either cooperate or collaborate depending on the situation.

### Morocco

Le Maroc soutient l'avancement de l'avant-projet de directives relatives à la prévention et au contrôle de la fraude alimentaire dans le processus par étapes du Codex. Toutefois, le Maroc aimerait emmêtré les commentaires suivants et espère leurs prises en compte par le comité :

**Titre :** Avant-projet de directives relatives à la prévention et au contrôle de la fraude alimentaire

**Commentaire :** le Maroc propose le changement du titre actuel comme suit : « Avant-projet de directives sur la détection, la prévention, la réduction et au contrôle de la fraude alimentaire »

**Justification :** l'avant-projet traite des questions liées à la détection, la prévention, la réduction et au contrôle de la fraude alimentaire dans les systèmes nationaux de contrôle des aliments (SNCA) et non pas uniquement la prévention et le contrôle comme l'indique le titre.

#### Section 2 – Portée/Objectif

Commentaire du Maroc :

- Garder la note de bas de page 3 qui exclut du champs des directives les questions de droits de propriété intellectuelle qui sort effectivement des attributions du Codex ;
- Garder les Parag. 9 bis et 9 bis .bis (dans le corps du texte) car ils sont importants pour cadrer clairement le champ d'application des directives sans rentrer dans des interférences avec les droits nationaux des pays.

**Section 6 - Rôles et responsabilités** - 13. Les ESA ont pour rôle et responsabilité, selon qu'il convient:

Commentaire :

- le Maroc propose l'ajout suivant au Parag. 13 (a) : « a. De comprendre leur chaîne d'approvisionnement et les produits/ingrédients/emballages susceptibles de faire l'objet de fraude alimentaire et de garantir l'intégrité des produits alimentaires et d'exiger de ses fournisseurs une chaîne d'approvisionnement sûre »
- le Maroc propose de garder le point « b »

**Justifications** : les ESA sont un maillon essentiel dans la détection, la prévention, l'atténuation et au contrôle de la fraude alimentaire et par conséquent doivent garantir l'intégrité des produits alimentaires et d'exiger de ses fournisseurs une chaîne d'approvisionnement sûre.

### **Section 7: Activités pertinentes des autorités compétentes**

Commentaire :

- le Maroc propose l'ajout suivant au Parag. 17 : « Les politiques, procédures et exigences réglementaires relatives à la prévention et au contrôle de la fraude alimentaire doivent être transparentes et reposer sur les risques et impliquer le développement de profils de risques et d'évaluations de la vulnérabilité pour chaque chaîne d'approvisionnement et chaque produit alimentaire »

**Justifications** : pour un meilleur contrôle de la fraude alimentaire, les autorités compétentes sont amenées à développer les profils de risques et évaluer la vulnérabilité pour chaque chaîne d'approvisionnement et chaque produit alimentaire sur le plan national. Cette mention dans les directives du Codex permettra aux membres d'entreprendre ce type d'activité de prévention.

**Point 7 (OJ)** : Avant-projet de principes et directives sur l'utilisation d'audit et d'inspections à distance dans les cadres réglementaires (CX/FICS 23/26/7) - étape 3

Le Maroc soutient l'avancement de cet avant-projet à l'étape 5 du processus par étapes du Codex, néanmoins, il émet les commentaires suivant tout en espérant qu'ils seront pris en compte par le comité:

### **Section 3 – Définition :**

**Commentaire** : Le Maroc propose d'ajouter les définitions de « audit » et « inspection ou du moins renvoyé en faisant référence aux définitions du Codex qui contiennent ces définitions.

### **Section 4 : Types d'audit ou d'inspection à distance :**

**Commentaire** : tel que la section est écrite, le Maroc considère qu'il s'agit de la description de la manière de la conduite de l'audit ou d'inspection à distance et non de types. A ce titre le Maroc d'adopter le titre suivant : « *Manière de conduite de l'audit ou d'inspection à distance* ». « way of conducting remote audit or inspection ».

Par ailleurs, par soucis de cohérence, le Maroc propose de déplacer la première phrase du point 7 en fin de la section autant que point 8 : « 8. *Les activités d'audit et d'inspection à distance peuvent être soit "partielles" si certaines parties sont réalisées à distance, ou "entièrement" si toutes les parties sont réalisées à distance* ». Ce nouveau point proposé énumère les deux types d'audit ou d'inspection existant.

Enfin, le point 7 deviendrait comme suit : « 7. *Les activités d'audit ou d'inspection ~~qui~~ peuvent être menées à distance et peuvent comprendre, ~~mais ne sont pas~~ mais sans s'y limiter à : .....* »

**Justification** : Apporter plus de cohérence et de clarté au texte.

**Section 5 –Principe 1:** Les activités d'audit et d'inspection à distance complètent et ne remplacent pas les audits ou inspections sur site ou en présence

Commentaire : Le Maroc propose des changements au point 9 comme suit : « 9. *Les activités d'audit ou d'inspection à distance peuvent servir de seul outil réglementaire pour vérifier la conformité d'un processus, d'une installation ou d'un SNCA, ou être utilisées en combinaison avec des pratiques sur site / en présence pour vérifier la conformité d'un processus, d'une installation ou d'un SNCA. Cependant, lorsque les autorités compétentes et les organismes d'audit le conviennent en commun accord, cet outil réglementaire à distance peut concerner la totalité d'un audit ou d'une inspection. Dans tous les cas, le recours à cet outil relève de la discrétion de l'autorité compétente ou de l'organisme d'audit selon leur évaluation de son caractère approprié, de sa compatibilité et du support technologique disponible. Les autorités compétentes devraient être averties réaliser que les audits ou inspections à distance ~~que les audits ou inspections à distance peuvent pouraient~~ ne pas convenir à toutes les exploitations du secteur alimentaire ou à toutes les autorités compétentes et que la nature distancielle de l'exercice peut aboutir à ce que des conclusions erronées soient tirées sur la conformité du système audité ou de l'établissement inspecté.* »

**Justification :** Le Maroc maintient sa position précédente que la règle de l'audit et de l'inspection à distance est la complémentarité avec l'audit ou inspection sur site ou en présence et non le remplacement. L'exception à ce sujet est que les audits à distance peuvent être le seul outil réglementaire pour vérifier la conformité, mais à condition d'un commun accord entre les parties du processus.

**Section 5 –Principe 2 –** Harmonisation des meilleures pratiques des activités d'audit et d'inspection à distance avec les audits et inspections présentiellelles

Commentaire : Le Maroc propose ce qui suit :

- la modification du titre du principe 2 comme suit : « Harmonisation des meilleures pratiques des activités d'audit et d'inspection à distance avec celles des audits et inspections présentiellelles » ;
- ajouter une note de bas de page pour citer quelques références des meilleures pratiques et les directives internationales en matière d'audit seront bénéfique aux membres.

**Justification :** L'audit à distance doit s'harmoniser avec les bonnes pratiques des audits physiques existantes. La mise en place d'une note de bas de page citant meilleures pratiques et les directives internationales.

**Section 5 –Principe 4:** Les activités d'audit et d'inspection doivent être planifiées et réalisées d'une manière coopérative

Commentaire : Le Maroc propose ce qui suit :

- la modification du titre du principe 2 comme suit : « Les activités d'audit et d'inspection doivent être planifiées et réalisées d'une manière coopérative et constructive » ;
- ajouter une nouvelle phrase en fin du parag. 12 comme suit « En tous les cas, les difficultés technologiques rencontrées ne peuvent en aucun cas affecté négativement le résultat de l'audit »

### Republic of Korea

General comment: Republic of Korea would like to thank the committee for their work. Although food fraud issues have already been discussed in many Codex documents, Korea supports the development of guidance specific to food fraud that undermine protecting public health, and upholding fair practices in food trade perspectives.

Also for Para 9: ROK agrees with the opinion of including feed into the guideline.

### Thailand

Thailand wishes to express our appreciation to an electronic working group (led by the United States of America with China, European Union, Islamic Republic of Iran, and United Kingdom) for the continuation of the effort in preparing the Proposed Draft Guidelines on the Prevention and Control of Food Fraud (CX/FICS 23/26/6, Appendix I).

Our comments on this matter are as follows;

#### Section 1: Preamble / Introduction

##### Paragraph 3

To cover the entire food supply chain and be consistent with other codex texts, the term "good manufacturing practices" should be replaced with "good hygiene practices".

#### Section 2: Purpose / Scope

##### Paragraph 9

Food fraud is related not just to food safety but also to fair practices in food trade. We suggest removing the phrase "food safety" from the first line of this paragraph. So, paragraph 9 should read:

“9. The purpose is to provide guidance to competent ~~food safety~~ authorities, other relevant agencies, and FBOs on the detection, prevention, mitigation and control of food fraud to help protect the health of consumers, and to ensure fair practices in food trade, including 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<sup>3</sup>”

### **Paragraph 9bis.bis**

We are of the view that “intentional adulteration” and “deliberate contamination” share a similar meaning and can be used interchangeably. Therefore, we suggest replacing “,” with “/”, so that paragraph 9bis. should read:

“[Additionally, intentional adulteration, / deliberate contamination of food in order to cause harm, is outside the scope of this guideline.]”

### **Section 3: Definitions**

It is suggested to remove the following definitions:

1. “Food authenticity” should be removed this term is being used nowhere else in the document.
2. “Food Fraud Vulnerability” and “Food Fraud Vulnerability Assessment” should be removed, because they can be adequately described by more general phrases such as “susceptibility to food fraud” and “collection and evaluation of information”.

### **Section 4: Types of food fraud**

#### **• the first paragraph**

To be clear, “without undeclared on labeling” should be added to the first paragraph, so it should read:

“The following section provides examples, when done intentionally for economic gain without undeclared on labeling, of types of food fraud, noting this list is not all inclusive.”

#### **• Counterfeiting**

For clarity, the phrase “with the intention to deceive or defraud for economic gain” should be added at the end of the sentence as follows:

“Counterfeiting: The process of making an imitation of food products with the intention to deceive or defraud for economic gain.”

#### **• Concealment**

The phrase “on labeling” should be added to ensure that all information about a food product's characteristics are clearly displayed on the label in order to avoid concealment leading to food fraud. So, “Concealment” should read:

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

### **Section 6: Roles and Responsibilities**

#### **Paragraph 12a**

We propose adding the phrase “along the entire food supply chain” to ensure that the oversight program is established or maintained for the entire food supply chain. So, this paragraph should read:

“Establish or maintain oversight programs to detect, prevent, mitigate, and control food fraud along the entire food supply chain.”

#### **Paragraph 12b**

We propose removing the word “better”, as it is unnecessary. So, this paragraph should read:

“b. Develop or maintain mechanisms/platforms to ~~better~~ detect food fraud.”

#### **Paragraph 13a**

1. It is recommended that “input material” should be added to clearly describe that “feeds/seeds for food producing animals” are included in the food supply chain.
2. The phrase “Where applicable information on potential food fraud should be collected and evaluated” should be added at the end of the paragraph.

This paragraph then should read:

“a. Understand their supply chain and which input material / products/ingredients/packaging in it may be susceptible to food fraud. Where applicable, information on potential food fraud should be collected and evaluated.”

**Paragraph 13b**

We propose removing paragraph 13b, because paragraph 13e already provides sufficient-description.

**Paragraph 19**

It is suggested that “may” should be replaced with “should” , because the competent authority should consider establishing surveillance activities to detect food fraud on a routine basis or in response to specific risk that has been identified.

## Uganda

Uganda appreciates the work done by the EWG chaired by the United States of America and co- chaired by China, European Union, Islamic Republic of Iran, and the United Kingdom.

Uganda supports the adoption of the guidelines to step 5/8, and recommends taking into consideration the comments raised below.

**Section 2: Purpose/Scope**

**Comment:** 9bis and 9 bis.bis: Uganda proposes that 9bis and 9 bis.bis to be removed from the document or be captured as a footnote for information purpose.

**Justification:** 9 bis and 9bis.bis is outside the scope of these guidelines

**Section 2: para 9 footnote 3**

**Comment:** Uganda supports retention of footnote.

**Justification:** Matters of intellectual property rights are diverse and may not fall within the jurisdiction of the NFCS.

**Section 2: Definitions**

**Comment:** Uganda proposes deletion of the definition of Food Fraud Vulnerability Assessment.

**Justification:** Food Fraud Vulnerability Assessment has not been used in the main text.

### Section 2 Para 9

**Comment:** Delete ‘including feed for food producing animals’ at the end and rearrange for clarity.

**Justification:** To read as ‘The purpose is to provide guidance to competent food safety authorities, other relevant agencies, and FBOs on the detection, prevention, mitigation and control of food and feeds for food producing animals fraud to help protect the health of consumers, and to ensure fair practices in food trade.’

**Section 6: Roles and Responsibilities 12c**

**Comment:** Uganda proposes 12c to read “Build partnerships and collaborations with **relevant** government **authorities**, industry, academia and other stakeholders to combat food fraud.”

**Justification:** This makes it clear that only relevant stakeholders are to be considered in collaborations. It also puts emphasis on the constitutional government authorities to be referred to in this context.

**Section 6: Roles and Responsibilities 13b**

**Comment:** Uganda proposes deletion of para 13b

**Justification:** The has been elaborated well in para 13e and has covered main aspects of food fraud.

**Section 7: Relevant Activities for Competent Authorities para 15**

**Comment:** Uganda proposes that the word legislative should be replaced with legal.

**Justification:** To be consistent with principle 3 section 5.

**Section 7: Relevant Activities for Competent Authorities para 21**

**Comment:** Uganda proposes to replace ‘others’ with relevant and add ‘Authorities’ after the government to read “Competent authorities may consider establishing appropriately secure communication channels with **relevant** government **authorities**, 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.”



**Justification:** This makes it clear that only relevant stakeholders are to be considered in collaborations. It also puts emphasis on the constitutional government authorities to be referred to in this context.

#### **Section 7: Relevant Activities for Competent Authorities para 21 bis**

**Comment:** Uganda proposes to amend para 21 to read as follows “Competent authorities may consider establishing appropriately secure communication channels with other governments, FBOs, academia, **whistle-blowers** 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.” and delete para 21 bis.

**Justification:** Secure communication channels developed by competent authorities will promote the general protection of whistle-blowers since protecting an individual is outside their mandate.

#### **Section 7**

**Comment:** Uganda proposes the Introduction of the word ‘groom’ which will provide knowledge and guidance to the whistle blowers on information of food fraud incidences.

**Justification:** To read as ‘Competent authorities should consider developing tools to groom and protect persons acting as “whistle-blowers” reporting such incidents’

#### **Section 8: para 24**

**Comment:** Uganda proposes that title should include both cooperation and collaboration and to read, ‘Cooperation, Collaboration and exchange of information between competent authorities.

**Justification:** Competent Authorities may decide to either cooperate and/or collaborate depending on the task.

#### **25 bis**

**Comment:** Include this para as part of the document due to its relevance.