



Report of the U.S. Delegate, 25th Session, Codex Committee on General Principles

Mar 30-Apr 3, 2009
Paris, France

The United States was generally pleased with the results of the 25th Session of the Codex Committee on General Principles (CCGP). The Committee:

- Completed work on revision to the Code of Ethics for International Trade in Food, recommending adoption by the Codex Alimentarius Commission (CAC) at Steps 5/8.
- Furthered considered the area of consensus and agreed upon a number of additional recommendations to foster consensus in Codex standards decision-making. The Committee did not agree to establishing a definition for consensus at this time but did agree to consider the possibility of a study to assess the feasibility of using a qualified majority voting process to adopt standards.
- Discussed a number of possible means to enhance the role of developing countries in the work of Codex with the results of the discussion to be forwarded to the CAC for its consideration at the upcoming 32nd Session of the Commission.
- Agreed that the existing Terms of Reference of Codex Regional Coordinating Committees do not have to be changed to permit these Committees from discussing matters of importance to the Region and to promote the adoption of regional positions on strategic subjects.
- Endorsed for adoption by the CAC the *Draft Nutritional Risk Analysis Principles and Guidelines for Application to the Work of the Committee on Nutrition and Foods for Special Dietary Uses*.
- Due to a lack of time, did not discuss in depth the adjusting or removing of language relating the acceptance of Codex texts from certain Codex commodity standards (the Codex Acceptance Procedure was abolished in 2005), but did add a footnote to fourth *Statement of Principle Concerning the Role of Science in the Codex Decision-Making Process* noting that the Acceptance Procedure had been abolished. The Committee also amended the Terms of Reference of CCGP to remove reference to the Acceptance Procedure.
- Agreed to discontinue work on a proposal to distinguish between Codex standards based on a risk assessment and "enabling standards" (that is, standards based on science but not based on a risk assessment).
- Agreed that references in the *Procedural Manual* and in the Report of the 31st Session of the Codex Executive Committee (CCEXEC) relating to the recording of minority views and/or country reservations regarding a Committee decision were complementary and not redundant, and should all be retained. Further, that



the guidance provided by the CCEXEC should be integrated into the *Procedural Manual*.

- Agreed to develop a Discussion Paper considering possible further engagement between Codex and the OIE.

Additionally, due to the lateness of the Agenda Paper, the Committee postponed a review of the consistency between guidelines on the application of risk analysis principles prepared by following Codex Committees: Food Additives; Contaminants; Pesticide Residue; and Nutrition and Foods for Special Dietary Use.

The 25th Session of CCGP was attended by 200 Delegates representing 68 member countries, one member organization (EC), and 18 international organizations. The United States was represented by the Co-U.S. Delegates, Dr. Michael Wehr, FDA, and Ms. Barbara McNiff, USDA FSIS, nine (9) government advisors and four (4) non-government advisors.

The full report of the 25th Session of CCGP can be found in ALINORM 09/32/33 on the Codex web site, www.codexalimentarius.net.

The following summarizes the results of the Session.

Proposed Draft Revised Code of Ethics for International Trade in Food (Agenda Item 3)

The Codex Code of Ethics had been discussed at several previous Sessions of CCGP with mixed views on the need for the Code and, if retained, on its various provisions. CCGP, at its' last session, had considered a shortened version of the Code proposed by the United States. Additionally, at the last Session of CCGP, the Chairperson urged the Committee to make progress on the Code.

At this Session of CCGP, the Committee recognized the importance of ethics in international trade in food, especially to prevent the export of unsafe food to countries with no adequate legislation and/or food control system.

While mixed views regarding the need for the Code continued to be raised, the Committee agreed to undertake a section-by-section review, with the following substance changes made to the draft revised Code.

- Added reference to concessional and food aid in the title and scope of the Code.
- Added a reference in the scope of the Code that governments should work with other parties to promote ethical conduct at the national level.

- Added a principle that products introduced into international trade should have a remaining shelf life, where applicable, that allows sufficient time for distribution in the importing country.
- Added a provision that competent authorities involved in assuring the safety and suitability of food in international trade should apply principles of ethical conduct.
- Noted that exported food should meet the requirements of the exporting country unless otherwise established by legislation as may be in force in the importing country or explicitly accepted by the competent authorities in the importing country.
- Added a provision that food should not be placed into international trade for the purpose of disposing of unsafe or unsuitable food.

The Committee agreed to forward the Code for adoption by the CAC at Steps 5/8, although several countries stated their objections to this decision.

Consideration of the Concept of Consensus (Agenda Item 4)

At the 30th Session of the CAC the concept of consensus was discussed, and the Commission recommended that further study of consensus be a priority of the 25th Session of CCGP.

Prior to the meeting, the Secretariat disseminated the responses to a questionnaire completed by the Chairs on their interpretation and application of consensus for discussion at the 25th session. The FAO legal representative discussed the concept of consensus and its uniqueness in the Codex decision making process. He indicated that there was no legal impediment to the adoption of a definition of consensus, but the adoption of a definition would be a departure from UN and FAO procedures.

There was general discussion on consensus in which the following sentiments were expressed:

- Consensus should be all inclusive, taking into account all the views and concerns of every country, not just the industrialized nations.
- The views of the developing countries were necessary in order to impart legitimacy on the work of Codex.
- The Chairs had too much power and often claimed consensus when there was none.
- Chairs interpreted consensus very differently.
- Chairs are not always independent.
- Consensus was not unanimity, nor a quantifiable concern, or a narrow definition.
- Consensus was difficult for both the chairs and the delegates, especially those involved in the give and take process.
- The Procedural Manual contained sufficient guidance on consensus.

CCLAC put forth the following definition of consensus, "consensus is the absence of justified opposition from any member present at the meeting where the decision is taken." While some delegations supported this definition, others saw that it would be very difficult to arrive at a consensus regarding the meaning of "justified."

Some delegations were concerned that in order to achieve full consensus, the standards could become more diluted and weaker. Other delegations noted that consensus was particularly difficult to achieve for trade related issues.

Delegates were then given the opportunity to discuss several statements contained in the CL prepared by the Secretariat on consensus. On the whole, delegations supported the creation of a Chair's booklet on consensus and an annual meeting of the chairs in a facilitated forum.

The Committee agreed that:

- The Secretariat would
 - Continue work on a brochure for the chairs.
 - Convene an informal meeting of the chairs in conjunction with the Commission meeting.
 - Explore possibilities for developing a reference document for delegates on consensus building.
- Problematic cases in which it does not appear consensus could be reached could be addressed by an informal meeting of the chairs.
- An amendment to the Guidelines to Chairpersons of Codex Committees and *Ad Hoc* Intergovernmental Task Forces allowing for the use of a facilitator in cases where the process of achieving consensus is stalled be forwarded to Commission.
- An evaluation sheet would be prepared to be used by the delegates at the conclusion of Codex meetings which would include questions on the performance of the chairperson.

Delegates remained divided on the need for a definition of consensus. Some delegates suggested that a study on the implications of a two thirds majority vote be undertaken, while other delegations did not agree that such a study was warranted. The Committee agreed that the Executive Committee and the Commission should consider commissioning a study on the pros and cons of qualified majority voting.

Participation of Developing Countries in the Work of Codex (Agenda Item 9)

In response to a request from the 31st Session of the Commission, the Secretariat prepared a document containing (1) data on the participation of developing countries in the work of Codex and (2) eight proposals to improve their participation.



The following recommendations received little or no support:

- Introducing video conferencing for Codex sessions
- Restricting the membership of Codex Committees and Task Forces
- Introducing remote voting in the Elaboration Procedure at Step 1

The Committee gave qualified support to recommendations involving

- Making the best use of written comments, although acknowledging this was unlikely to solve the fundamental problems.
- Fostering dynamic exchanges of opinions/comments outside physical meetings, such as electronic forms, e.g. blogs or chat rooms, but recognized that the responsibility of monitoring these forums would be an additional burden on Codex Contact Points.

The Committee was divided on the recommendation to reduce the number of Codex sessions per year and per biennium with several delegations suggesting that this would ease the workload of Codex members and allow them to better concentrate their resources, while other delegations believed the number and frequency of meetings should be dictated by the amount of work each committee had before them. Several delegations stated that the Commission should continue to meet annually in an effort to keep the work of Codex moving.

Some delegations believed the proposal to hold all Codex sessions in Rome or Geneva warranted further study, however, many other delegations opposed this proposal citing (1) the need for expert technical representation at committee meetings, which could not be provided by the permanent representatives who would most likely be attending meetings in Rome and Geneva, (2) the added costs to host countries, and (3) the lost opportunities for cost hosting.

The committee also believed that the recommendation proposing to extend the Codex Trust Fund to all Codex members and all Codex meetings was desirable, but unrealistic, given the high price tag (\$14 million) it would cost every year.

In addition to the proposals above, significant discussion was devoted to the Codex Trust Fund. The Committee recognized the achievements and accomplishments of the Trust Fund — notably increased attendance by developing countries at Codex sessions and a strengthening of countries' food safety infrastructures — but several delegations expressed concern over the lack of effectiveness and transparency in the management of the Trust Fund. Others cited problems involving visas and last minute approvals which impacted the Trust Fund recipients' ability to properly prepare for meetings. The U.S. delegation requested that before the 32nd Session of the CAC, the WHO Secretariat prepare and circulate for comment a paper discussing the upcoming mid



term evaluation of the Trust Fund, and at a minimum, include in the evaluation, a review of the recommendations put forth in the two studies that have been completed on the Trust Fund.

In response to the concerns expressed by some delegations, the WHO representative stressed the necessity to maintain distinction between different categories of beneficiary countries because the degrees of the need for support varied among countries.

Terms of Reference of FAO/WHO Regional Coordinating Committees (Agenda Item 6)

The Codex Committee on Latin America and the Caribbean, at the last Session of CCGP, had inquired as to whether the Terms of Reference (TOR) of Regional Coordinating Committees permitted these committees to discuss matters of importance to the Region and to promote the adoption of regional positions on strategic subjects and proposed a new (TOR) which would allow regional committees to carry out such matters. CCGP agreed to allow CCLAC to engage in this type of activity while forwarding the inquiry to all other Regional Coordinating Committees for their view on the subject.

Subsequently, all other FAO/WHO Regional Coordinating Committees considered the subject and expressed the view that the TOR of Regional Coordinating Committees do not have to be changed to permit these Committees from discussing matters of importance to the Region and to promote the adoption of regional positions on strategic subjects. Specifically, the Committees felt that current item (g) of the existing TOR of Regional Coordinating Committees ("exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission") was sufficient to allow Regional Coordinating Committees to develop regional positions on strategic subjects.

The Committee recommended no changes be made to existing TOR for Regional Coordinating Committees.

References to the Acceptance in Codex Standards (Agenda Item 7)

The Codex Acceptance Procedure, that is, the procedure for the acceptance of Codex standards by Codex Member governments was abolished in 2005 in light of the fact that the WTO SPS and TBT Agreements placed obligations on signatories to base their standards on internationally harmonized norms to the extent possible. Subsequently Codex abolished most all references to the Codex Acceptance Procedure in both the Codex *Procedural Manual* and in Codex standards.



A late-arriving Discussion Paper prepared by the Codex Secretariat pointed out, however, several Codex commodity standards where reference to the Acceptance Procedure remained, or where there was other wording directing how countries should use the standard. The Paper made certain recommendations to either eliminate these recommendations or otherwise note the nature of use of Codex standards in light of the abolishment of the Acceptance Procedure.

Because of the late arrival of the Paper, countries asked for additional time to conduct a detailed review of the recommendations, including the need for a legal review of the recommendations with respect to countries' obligations under the SPS and TBT Agreements. The Committee agreed that no detailed discussion would take place on this Paper at this Session of CCGP, but that the matter would be taken up at the next Session of the CAC.

Japan, in a Conference room document, noted two additional references to the Codex Acceptance Procedure, specifically: 1) reference in the fourth *Statement of Principle Concerning the Role of Science in the Codex Decision-Making* [1](#); and 2) reference in the CCGP Terms of Reference [2](#).

The Committee agreed to resolve item 1 (reference to Acceptance in the fourth Statement of Principle Concerning the Role of Science) by adding a footnote indicating that the Acceptance Procedure has been abolished.

The Committee agreed to resolve item 2 (relating to Acceptance in the CCGP Terms of Reference) by deleting the sentence containing examples. This change in the Committee's Terms of Reference will be forwarded to the Commission for approval.

Proposed New Definitions of Risk Analysis Terms Related to Food Safety (Agenda Item 8)

The Committee considered a paper prepared by New Zealand to differentiate between Codex standards prepared based on a risk analysis and other "enabling" standards that were based on science but not based on a specific risk-assessment. The Committee had twice previously considered and discussed this concept.

The Committee, while noting the points made in the paper should be borne in mind in the ongoing and further work of the Commission, noted that there was no need to continue work on this document.

Other Matters

Endorsement of *Draft Nutritional Risk Analysis Principles and Guidelines for Application to the Work of the Committee on Nutrition and Foods for Special*



Dietary Uses

The Committee endorsed the *Draft Nutritional Risk Analysis Principles and Guidelines for Application to the Work of the Committee on Nutrition and Foods for Special Dietary Uses* and recommended their adoption by the CAC.

Recording of Minority Opinions

The Committee considered a request from the Codex Committee on Latin America and the Caribbean (CCLAC) as to whether statements in the Codex Procedural Manual (see Rule 10 and the section on "Conduct of Meetings") concerning the recording of minority opinions and the recording of countries' request to reserve their opinion on decisions taken by Codex committees/task forces were redundant. Further, whether additional guidance on this subject given by the CCEXEC at its 2008 Session was also redundant.

The Committee agreed that all three references were, in fact, complementary, were not redundant and should be retained. Further, that the guidance provided by CCEXEC should be integrated into the Codex Procedural Manual with a recommendation to do so made to the CAC.

In the context of this discussion many comments were made by members of CCLAC on the need to better take into account minority views expressed by Codex members.

Working Relationship Between Codex and OIE

The Organization for International Epizootics/Organization for Animal Health (OIE) presented a Conference Room document in which they proposed the development of Joint Standards by Codex and OIE. The Committee noted that this subject had been discussed previously by CCGP and the CAC at which time it was decided that the development of joint standards was not appropriate although a close working relationship between the two organizations was both appropriate and worthwhile. Since that time OIE has engaged in Codex work both through attending pertinent Codex committees and task forces (e.g., Task Force on Antimicrobial Resistance, Task Force on Biotechnology, Committee on Food Import and Export Inspection and Certification Systems) and participation in pertinent working groups of these committees and task forces.

The Committee again debated the appropriateness of developing joint standards. Some delegations noted specific concerns associated with the development of joint standards including differences between the two organizations in such areas as transparency and the adoption procedures. The Committee agreed that the Secretariat should prepare a discussion paper on the possible development of joint standards between Codex and the OIE, addressing all relevant procedural and other issues, as well as implications, for consideration by the next session of the CCGP.



Review of the Consistency between Guidelines on the Application of Risk Analysis (Agenda Item 5)

Due to the lateness of the Agenda Paper for this item, the Committee postponed a review of the consistency between guidelines on the application of risk analysis principles prepared by the following Codex Committees: Food Additives; Contaminants in Food; Pesticide Residues; and Nutrition and Foods for Special Dietary Uses.

Structure and Presentation of the Codex *Procedural Manual* (Agenda Item 10)

The Committee considered and endorsed a reorganized 18th Edition of the Codex Procedural Manual prepared by the Codex Secretariat.

Date and Place of the Next Session

The 25th Session of the Committee will be held in either 2010 or 2011 depending on actions taken by the CAC and the precise need for the next Session of CCGP. The Government of Mali invited CCGP to meeting in Mali for its next Session.