



Report of the U.S. Delegate, 28th Session, Codex Committee on General Principles

The 28th Session of the Codex Committee on General Principles ([CCGP](#)) met April 7 – 11, 2014 in Paris, France. In addition to the plenary session, a physical working group (pWG) reviewed draft guidelines on cooperation between Codex and the World Organisation for Animal Health (OIE) and an in-session working group explored various “modalities for evaluating Codex and the management of Codex.” Approximately 200 delegates representing 69 member countries, one member organization (the European Union) and 16 international organizations participated in the session, which was chaired by France.

The United States was represented by Mary Frances Lowe (USDA/U.S. Codex Office) as delegate and Camille Brewer (FDA) as alternate delegate, two government advisors and two non-government advisors. Overall, the meeting was successful, and the outcome of most of the agenda items reflected the positions that the United States worked closely with other Codex delegates to advance.

Summary/Highlights

At this session, CCGP:

- endorsed the use of a Concern Form by the Codex Committee on Residues of Veterinary Drugs in Foods;
- reviewed the report of the Facilitated Discussion on the Root Causes of Standards Held at Step 8 (short of final adoption), and, in keeping with the Terms of Reference (TOR) of the Facilitated Discussion, concluded that no further action was required;
- proposed minor amendments to the *Procedural Manual* relating to Cooperation between General Subject Committees and Commodity Committees, for approval by the 37th Session of the Codex Alimentarius Commission (CAC)(2014);
- issued guidance on a new category of documents, “Information Documents,” that may be developed by Codex committees;
- proposed the Executive Committee develop a process to review the work management systems and practices of Codex, consistent with Goal 4 of the recently adopted Codex Strategic Plan;
- agreed that further work on guidance for economic impact statements/templates was not warranted at this time;
- conducted a limited discussion on legal issues related to the roles of the CAC Chair and Vice-chairs at the Commission and Executive Committee, but reached no decisions and made no recommendations to the CAC. The following paragraphs discuss the conclusions of the Committee in more detail. The full official report of the session is available on the Codex Alimentarius website at <http://www.codexalimentarius.org/meetings-reports/en/>

Matters Referred

Under this agenda item, the Committee endorsed the revised Terms of Reference (TOR) of the Codex Committee on Fresh Fruits and Vegetables (CCFFV). The TOR were greatly simplified by, among other things, removing the references to the UN Economic Commission for Europe (UNECE) and adding the statement, “to consult, as necessary, with other international organisations in the standards development process to avoid duplication.” The United States supported the revised TORs at the CCFFV and the endorsement of the revised TORs at CCGP.

The Committee endorsed actions taken by the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) relating to the Extrapolation of Maximum Residue Limits (MRLs) of Veterinary Drugs to Additional Species and the use of the Concern Form in CCRFDV. The United States strongly supported both of these actions taken by CCRVDF and supported endorsement by CCGP.

The CCGP also agreed to the Codex Committee on Food Hygiene’s proposal to amend the definitions of “hazard characterization” and “risk estimate” in the *Procedural Manual* and to forward the revised definitions to the upcoming Codex Alimentarius Commission (CAC) for approval at its next session, in July 2014. The United States supported endorsement by CCGP.



Report on the Facilitated Discussion

The Committee discussed the report, prepared by the United States and the European Union, on the Facilitated Discussion on the Root Causes of Standards Held at Step 8, which took place in conjunction with the 37th CAC on July 4, 2013. Many countries agreed that the Facilitated Discussion had been useful in that it provided countries with the opportunity to exchange views on such topics as the role of science and values in Codex. In keeping with the TOR, the report contained no recommendations, and the matter was closed. The United States appreciated the opportunity to work with the European Union in preparing the Report on the Facilitated Discussion and, in keeping with the TORs, supported the conclusion that no further action should be taken on this agenda item.

Economic Impact Statements

The Delegation of Malaysia, in cooperation with Australia, prepared a discussion paper pertaining to economic implications in standards development. The paper analyzed three case studies and concluded that when committees considered economic impact early in the standard development process, they were able to avoid potential problems. Thus, the delegation of Malaysia recommended that additional guidance be developed on how and to what extent economic impact statements should be considered in the development of a standard.

On the whole, the Committee recognized the importance of considering economic implications during the development of a standard; however, it was emphasized that the preparation and evaluation of economic impact data could be very expensive, complex and difficult, particularly for developing countries. The Committee concluded that the *Procedural Manual* (Part 3, Uniform Procedure for the Elaboration of Codex Standards and Related Texts) contained sufficient guidance to allow for appropriate consideration of economic factors. While no further work is required, the Secretariat offered to include a voluntary option to provide comments on economic implications in the template used by the Codex Secretariat to solicit country comments.

The United States had expressed serious concerns regarding the burden some of the proposed templates for submitting economic data would impose on member countries, particularly developing countries. Accordingly, the United States supported the committee's decision to rely on existing guidance in the *Procedural Manual* in considering economic factors in standard development and not pursue further work on this agenda item.

CCGP Terms of Reference (TOR)

The 28th CCGP continued a discussion of the Committee's TOR that began at the 26th Session (2010). The current TOR consist of one main point: "To deal with such procedural and general matters as are referred to it by the Codex Alimentarius Commission," followed by a list of examples of the type of work undertaken. In previous sessions, the Committee had agreed to: (1) delete the examples, except that the example related to economic impact statements had been left in square brackets, (2) expand the existing text to allow for referrals from the Executive Committee and other subsidiary bodies, and (3) add two additional points describing the Committee's work.

The Representative from the World Health Organization (WHO) discussed the proposed additions to the TOR and cautioned the Committee that the amendments could result in CCGP becoming a self-tasking committee, which in his view it was not intended to be. He further advised the Committee that the additions could oblige the Committee to meet more frequently and, more significantly, could be interpreted in such a broad way that CCGP could initiate revision of any text in the *Procedural Manual*, on its own, including texts developed by other committees to guide their work.

The Committee agreed to delete the bracketed text on economic impact statements but made no other changes to the proposed revised TOR. The proposed amendments to the TOR were forwarded to the CAC for adoption; however it was noted that there was no intention by the CCGP to expand its authority by proposing revised TOR. The intent was to allow for more flexibility and describe current practice, not to broaden the scope or competence of CCGP.

Codex/OIE Cooperation

A physical working group (pWG) on Codex/World Organisation for Animal Health (OIE) Cooperation, chaired by Canada, convened prior to the start of the session. The pWG reviewed a draft guidance document on OIE/CODEX cooperation which had been developed by an electronic working group (eWG).



Dr. Vallat, Director General of the OIE, addressed the plenary session of the CCGP and advised that the OIE was most interested in ensuring a coordinated approach to standard setting in areas of mutual interest which would ensure that there would be no contradictory texts or gaps in the standards developed by the two organizations. He further stated that there was no legal basis underpinning the collaboration of Codex and OIE and he hoped that CCGP's work on collaboration between the two organizations could be integrated into the agreements between OIE and WHO and FAO.

In the ensuing discussion the Representative of WHO noted that the CAC operated under the FAO and WHO rules and that relations between the CAC and other organizations were primarily the prerogative of the Directors-General of the two parent organizations. He drew the Committee's attention to Codex texts which provided guidance on cooperation between Codex and other intergovernmental organizations and expounded on the actions already taken by Codex to foster cooperation with OIE. He cited several examples of successful collaboration between the two organizations. The WHO Legal Counsel further informed the Committee that amendments to the Agreement between WHO and OIE, which had been approved by the World Health Assembly (WHA), were under the WHA's authority.

The plenary session of the CCGP reviewed the guidance in the document which had been developed by the eWG and revised by the pWG. The Chair of the working group clarified that the purpose of the guidance was to promote collaboration between the CAC and Codex and was not intended to serve as a basis for the development of joint standards. After making some revisions to the draft document, the Committee decided to forward the guidance to the upcoming CAC for endorsement. The Committee noted that the guidance was not intended for use in, or for incorporation into, any legally binding agreements.

The U.S. position on this issue emphasized collaboration with OIE, rather than the development of joint standards with OIE. Accordingly, the United States was satisfied with the action taken by the Committee.

Information Documents

The 27th Session of the CCGP (2012) agreed to establish an eWG, chaired by the United States, to consider how to make information or reference documents that were developed by Codex committees but not formally adopted by the CAC, more widely available and accessible, and to develop criteria for selecting such documents.

The Committee considered the findings of the eWG and agreed that such documents were needed, but noted that they should be by-products of the work of the committees and not be deliberately developed as such. It is also expected that their number would be limited.

The Committee agreed to call such documents "Information Documents" and agreed with the criteria developed by the eWG for including texts in this category of documents. Information Documents will be made available on the Codex website of the relevant committee, clearly separated from official documents and adopted texts.

Information and guidance regarding Information Documents will be made available to all Codex committees through the 37th Session of the CAC (2014). Each committee will be able to determine if they have documents that satisfy the criteria that they would like to post on the website as Information Documents.

The United States supported the Committee's decision and the conclusion that these documents are expected to be rare and should only be the by-products of and illustrative of ongoing work by the committees.

Cooperation between General Subject Committees and Commodity Committees

The Delegation of Norway prepared a discussion paper with the stated purpose of improving transparency and coordination between the work of general subject committees and commodity committees. Although many delegations acknowledged that the Executive Committee, the Codex Secretariat and committee chairs all had responsibility for ensuring that work among the committees was well coordinated and not duplicative, the Committee did agree to forward two proposed amendments to the *Procedural Manual* to the CAC for approval. Both amendments concern the processes for new work proposals. One amendment proposes including information on ongoing Codex work in the project document for new work proposals; the other recommends that in the critical review process, advice may be given on the need for coordination of work between relevant Codex bodies.



Several delegations expressed reservations, based on their belief that more time was needed to reflect on these amendments. The Chair observed that they could submit written comments pertaining to these proposed amendments and raise any concerns before the July 2014 CAC.

While the United States does not object to the proposed amendments in principle, the U.S. position is Codex should be very economical in amending the *Procedural Manual* and that these amendments are not necessary.

Codex Work Management: Committees and Critical Review

The delegation of Japan prepared a discussion paper on whether there was a need to review the *Procedural Manual* in order to provide more clarity with respect to the creation of new Codex committees and task forces, and whether there was a need to review the implementation of the recommendations of the 2002 Joint FAO/WHO Evaluation of the CAC.

The discussion was influenced by the Representative of WHO who stated that the 2002 evaluation required the investment of significant financial resources by FAO and WHO and such resources were not currently available. He also stated that decisions on future evaluations were within the purview of WHO and FAO, and that general management of Codex work, including critical review and standards management functions, belonged to the Executive Committee, not the Committee on General Principles. The Legal Counsel of WHO confirmed that the conduct of an evaluation of Codex was the responsibility of FAO and WHO.

An in-session working group was formed which had as its TOR “to explore the various modalities for evaluating Codex and the management of Codex.” The in-session working group agreed to support and give priority to the review of Codex work management practices. The WHO Representative cautioned that member states should not immediately embark on an evaluation that was member states-driven and not guided by FAO and WHO.

As a result of the discussion, the CCGP proposed that the Executive Committee develop an inclusive and clearly scoped process to review the work management systems and practices of Codex according to Strategic Goal 4 of the 2014-2019 Strategic Plan and to consider a review, sponsored by FAO and WHO, on the status of implementation of the recommendations arising from the 2002 evaluation.

The United States does not object to an appropriate review of the work management systems and practices of Codex, but strongly believes the review must be closely tied to the achievement Strategic Goal 4 of the 2014 – 2019 Strategic Plan. The United States would not support a comprehensive review of the *Procedural Manual* or the fundamental principles underlying Codex work.

Role of Chair and Vice-Chairs of the CAC for the Purpose of Rule V.1 of the Rules of Procedure

(Rule V.1 – “...Not more than one delegate from any one country shall be a member of the Executive Committee. “)

The relevant document on this issue was not distributed until after the beginning of the plenary session and then, in English only. A number of delegations objected to its consideration, since they had not had time to review it or consult with their capitals and stakeholders. While the Chair appeared receptive to postponing the discussion due to the late availability of the document, the European Union in particular wanted to proceed to a debate on the issue, and a general discussion ensued.

The paper was prepared by the Legal Offices of FAO and WHO at the request of the 36th Session of the CAC (2013). The issue centers around the meaning of the term “delegate” as used in Rule V.1, within the general context of the Rules of Procedure of the CAC. It was recognized that this issue was raised in 2009 and 2013, and in both instances the CAC affirmed that Chairs and Vice-chairs are elected by the entire membership of Codex, and they represent the interests of the CAC as a whole, not the interests of their individual countries. Thus, it was pointed out that the precedents are clear and the issue has been dealt with in a consistent manner by the Commission.

There was some discussion of the need to clarify the roles and responsibilities of the Executive Committee, as a whole, and whether the application of this interpretation of Rule V.1 should apply to other members of the Executive Committee, specifically to Members elected on a geographical basis. The possible implication that such proposals



might have on other international organizations was acknowledged and highlighted the need not to make any decisions or recommendations for the CAC's consideration.

Due to the lateness of the paper, the Chair noted that no decision was taken on this issue. The Committee's discussion would be considered under Matters Referred at the 37th Session of the Commission (2014).

The United States strongly believes that CAC Chairs and Vice Chairs represent Codex as a whole and not their individual countries while serving on the Executive Committee and at the Commission. Any other finding could result in serious harm to Codex and possibly set an adverse precedent for other international organizations. Due to the lateness of the paper and its availability in English only, the United States does not believe that the CCGP was able to have a full and meaningful discussion of this issue, and agrees that the Committee was not in a position to make any recommendations.

Other Business

In Conference Room Document 11, Egypt proposed two significant amendments to the *Procedural Manual*. One amendment would require unanimity for the adoption of texts related to consumer health and safety; the other related to the composition of the Executive Committee. The Representative of WHO recalled that the Committee could not, under its current TOR, initiate work on its own to amend the *Procedural Manual*. Egypt will prepare a discussion paper for consideration by the Commission.

Next Session

The next session of the Committee will be scheduled for April 2016, unless the CAC decides otherwise, (e.g., due to accumulation of work that demands CCGP attention before then).