

# Report of the U.S. Delegate, 25<sup>th</sup> Session, Codex Committee on Food Import and Export Inspection and Certification Systems

May 31 - June 8, 2021  
(Virtual)

The 25<sup>th</sup> Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS25) convened virtually May 31 – June 8, 2021. The session was chaired by Australia. The session had over 600 registrants representing 88 Member Countries, one Member Organization (the European Union), and 18 observer organizations (international inter-governmental and non-governmental organizations and United Nations agencies). The United States was represented by U.S. Delegate Mary Stanley, USDA Food Safety and Inspection Service; U.S. Alternate Delegate Jennifer Thomas, U.S. Food and Drug Administration; nine government advisors and five non-government advisors.

This year's meeting took on a different atmosphere from previous years in that it was held in a virtual format. In addition to the plenary sessions, the meeting included three in-session working groups (IWGs) to: (1) resolve editorial and technical comments on paperless trading; (2) continue discussion on substantial editorial and technical comments on the draft guidelines on systems equivalence; and (3) review and revise the project document related to food fraud.

The United States was successful in achieving its major goals for the session, despite the challenges involved in working for the first time in a virtual setting. Consistent with U.S. positions, the Committee agreed to forward two major texts (on third party assurance programs and use of paperless generic official certificates) for final adoption by the Codex Alimentarius Commission at its next session (CAC44, now scheduled for November 2021), to recommend CAC44 approval of new work on food fraud to be chaired by the United States, to retain draft guidelines on systems equivalence for further consideration at the next CCFICS session, and to progress the work on draft consolidated Codex guidelines related to equivalence for further consideration at the next CCFICS session.

## Highlights

The 25<sup>th</sup> Session of CCFICS:

- Agreed to forward the proposed draft *Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance Programs* to the 44<sup>th</sup> session of the Codex Alimentarius Commission (CAC44, November 2021) for final adoption at Step 8.
- Agreed to forward the proposed draft revised *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38-2001) to CAC44 for final adoption at Step 5/8.
- Re-established an electronic working group (EWG), Chaired by New Zealand and Co-Chaired by the United States and Kenya, to continue work on developing draft *Guidelines on Recognition and Maintenance of Equivalence of National Food Control Systems*; and to continue work on consolidation of all Codex guidance related to equivalence.
- Established an EWG, Chaired by the United States, and Co-Chaired by the European Union, China, the Islamic Republic of Iran, and the United Kingdom, to develop draft *Guidance on the*

*Prevention and Control of Food Fraud* in the context of food safety and fair practices in the food trade.

- Agreed to maintain *Emerging Global Issues (Discussion Paper on Consideration of Emerging Issues and Future Directions for the Work of CCFICS)* as a standing agenda item. Australia and Kenya will lead work to update the discussion paper for the next session.
- Agreed to establish an EWG, Chaired by Australia and Co-Chaired by Canada and Singapore, to develop a discussion paper on the use of Information and Communication Tools (ICT) in a regulatory framework.
- Agreed to establish an EWG, Chaired by the United States and Co-Chaired by the United Kingdom, to develop a discussion paper with the possibility of a project document to revise and update the existing Codex guidance on traceability (CXG 60-2006).

A summary of the discussion of these items and other matters considered by the Committee is presented below. The official report of the 25<sup>th</sup> Session of CCFICS can be found at <http://www.codexalimentarius.org/meetings-reports/en>.

## Meeting Summary

### *Draft Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance (vTPA) Programmes*

As Chairperson of the EWG on draft *Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance (vTPA) Programs*, the United Kingdom summarized the relevant background of this item. The United Kingdom detailed the work undertaken since CCFICS24 (2018) and introduced a revised draft for the Committee's consideration. The EWG considered the outstanding issues and comments submitted at CAC42 (2019) as well as comments submitted to the rescheduled CCFICS25 (2021). The EWG Chairperson noted the broad support for the work. The EWG Chairperson also noted an intersessional webinar was held preceding CCFICS25 (2021). Based on comments received, definitions were streamlined, edits were made to enhance consistency and provide clarity, and duplicative text was removed. The EWG Chairperson noted the wide international interest in this topic.

The Committee reviewed the draft guideline in its entirety. Participants discussed edits to the definitions, and generally deferred to International Organization for Standardization (ISO) definitions where applicable. Edits were made to the Principles section to clarify terminology and to delete principles that were not necessary to the guideline. Significant discussion was held around the roles and responsibilities of competent authorities, The Committee agreed to delete reference to "authorized by relevant national legislation;" clarify that the mandate of competent authorities was derived from applicable regulations; align terminology with the *Principles and Guidelines for National Food Control Systems (CXG 82-2013)*; and retain the provision related to addressing potential conflicts of interest as drafted.

The Committee agreed to forward the proposed draft guidelines as revised to CAC44 (2021) for final adoption at Step 8.

*Revision of the Guidelines for Design, Production, Issuance, and Use of Generic Official Certificates (CXG 38-2001) to include guidance on paperless certification*

The representative of the Netherlands, as Chairperson of the EWG, introduced the revision and provided background on its development. Work was begun on the revision after CCFICS23 (2017), focusing on changes to the existing guideline necessary to accommodate use of electronic certificates in lieu of paper certificates. CCFICS24 had agreed to return the proposed draft guidance for redrafting by the EWG. After CCFICS25 was postponed in 2020, the EWG continued work to address comments. The CCFICS Chairperson noted how the COVID19 pandemic had illustrated the importance of paperless use of electronic certificates and the urgency to complete the revision of the guidelines.

Following an initial discussion, the CCFICS Chairperson proposed continuing the discussion in an IWG to improve clarity and consistency in the text and to address the outstanding issues. The document as revised by the IWG served as the basis for further discussion in plenary.

During the IWG, Members proposed extensive editorial and technical amendments to the proposed revisions to the draft guideline, focusing solely on changes to accommodate electronic certificates. The United States raised concern about inconsistent use of the terms “certifying body” and “competent authority,” which was adequately addressed during the discussions in plenary. In the IWG and plenary session, the Committee agreed to a number of editorial and clarifying changes to the document, including amendments to footnotes to the Definitions, the definition of Electronic Signature, and the Principles section.

In Annex I (Generic Model Official Certificate), the original draft text included a statement regarding periodic review of the model certificate and reference data model by CCFICS to ensure continued usefulness to countries developing or utilizing electronic certificates. The United States requested clarification on the mechanism for this review. New Zealand agreed the text was not appropriate, since it was an instruction for CCFICS and not for Members. The statement was removed.

In Annex II (Paperless Exchange of Official Certificates), the introductory paragraph was revised to refer specifically to legislative and technological barriers to the use of electronic certificates. Some Members expressed concern about specifically referencing certain technology; however, because the references were from the Centre for Trade Facilitation and Electronic Business (UN CEFAC), a standard setting body under the auspices of the United Nations, the references were retained.

At the conclusion of the discussion on the text of the document, there were mixed views on whether to recommend final adoption at Step 5/8 by CAC44 (November 2021). Several Members (Chile, the Dominican Republic, Indonesia, Kenya, and Malaysia) proposed recommending interim adoption at Step 5, which would allow for another round of review and discussion by the Committee. This would provide time for a more detailed review of the revised document, especially related to technical aspects of electronic certificates. Other members (Australia, Costa Rica, El Salvador, European Union, Jamaica, Korea, Mexico, New Zealand, Norway, Panama, Trinidad and Tobago, Uganda and the United Kingdom) expressed the opinion that the document should progress to final adoption at Step 5/8, noting that consensus on the text had been achieved and the urgency of providing guidance on paperless certification in light of the COVID-19 pandemic; the United States concurred. The Committee agreed to forward the document to CAC44 for final adoption at Step 5/8.

## *Draft Guidelines on Recognition and Maintenance of Equivalence of National Food Control Systems (NFCS)*

New Zealand, as Chairperson of the EWG, provided an overview of the process followed by the EWG to develop the draft guidelines. The Committee Chairperson proposed a general discussion, followed by a section-by-section discussion. Several issues were identified during the general discussion that continued to be raised throughout the section-by-section review. Participants agreed that the preamble should be simplified. The United States noted that the draft guideline continues to lack clarity around the differences between the approaches to equivalence in the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures and the WTO Agreement on Technical Barriers to Trade (TBT). Members also expressed the need to balance the rights and interests of importing and exporting countries, and to respect the sovereign right of countries to set their own import requirements.

After an initial discussion with limited progress, the CCFICS Chairperson proposed an IWG to further the discussion. The CCFICS Chairperson identified Ms. Kathy Twardek, Chairperson of the Codex Committee on Food Labelling (CCFL), as a “Friend of the Chair” to assist the IWG.

In the IWG, chaired by New Zealand, and later in plenary, participants discussed the document section-by-section. In the Preamble section, the Committee agreed to delete paragraphs 1 and 2 and reorder the remaining paragraphs. In response to comments on the Circular Letter (CL 2021/17/OCS-FICS), the EWG had developed a new paragraph in the Preamble to introduce the different approaches to equivalence in the WTO agreements. The plenary proposed edits to this paragraph but did not reach agreement.

In the Definitions section, the United States raised a concern about the definition of “NFCS Objectives” and the possibility for confusion because the definition is not consistent with the usage of the term “NFCS Objective” in the Codex document *Principles and Guidelines for National Food Control Systems* (CXG 82-2013). Other Members agreed with the United States’ concern. The EWG Chairperson differentiated the terms by stating that the term in CXG 82-2013 is “Objective,” while the term in the draft systems equivalence guidance is “Objectives.” The Committee deleted the definition and inserted the text as a footnote to one of the Principles.

In the Process Steps section, Members had significant discussion around the tone and approach to the process. Some Members suggested edits to clarify that equivalence determinations had benefits to both the importing and exporting countries. One Member (Chile) sought explicit clarification in the document that nothing in this document prevented a country from exercising its right to request an equivalence determination from another country. The United States requested text to clarify that the importing country makes the final decision to proceed with a systems equivalence determination; the edit was supported by other Members.

The Committee considered the report from the IWG as contained in [CRD 21](#). While there was progress made, there are fundamental differences remaining, including:

- The distinctions between the WTO SPS and TBT provisions as they apply to equivalence assessments needed to be more clearly articulated;

- The roles and obligations of exporting and importing countries needed to be further elaborated taking into account the principles of transparency, fair treatment, and non-discrimination;
- The balance of the rights of importing versus exporting countries needed to be carefully examined to avoid unnecessary burdens imposed on an importing country, and hence a balance was required in this respect; and
- The proposed steps should not impede a country from making a request for equivalence from another country and there should be flexibility when implementing the steps.

The plenary had a lengthy discussion about the next steps for the document. Some Members advocated recommending interim adoption at Step 5; however, many Members, including the United States, felt there continued to be lack of consensus around many aspects of the draft guideline. Members in favor of returning the proposed draft guidelines to Step 2/3 acknowledged the progress made so far, but noted that the entire text was not reviewed during the plenary or the IWG and that careful review is needed to ensure all concerns have been addressed. The CCFICS Chairperson noted that there was not consensus on proceeding and proposed that the draft guideline be returned to Step 2/3 for redrafting to clarify the points raised during CCFICS25 and circulation for comments. The Committee accepted the Chairperson's recommendation.

New Zealand will continue as Chairperson for the EWG and the United States will continue as Co-Chairperson. Chile noted that they would be stepping down as Co-Chairperson for this EWG. Kenya agreed to replace Chile as Co-Chairperson.

#### *Proposed Draft Consolidated Codex Guidelines Related to Equivalence*

Work on consolidation of all Codex guidance related to equivalence was proposed at CCFICS24 and approved by CAC42 (July 2019). Work has been done to develop a proposed outline for the consolidated guideline and the EWG made progress in identifying existing Codex texts relevant to equivalence. However, additional work did not progress.

The Committee discussed the relationship between the on-going work on systems equivalence and progression of the consolidation work. The consensus of the Committee was that work on the consolidated text should continue and that completion would require finalization of the systems equivalence text; the United States supported this position.

New Zealand will continue as Chairperson for the EWG and the United States will continue as Co-Chairperson. Chile noted that they would be stepping down as Co-Chairperson for this EWG. Kenya agreed to replace Chile as Co-Chairperson.

#### *Discussion Paper on the Role of CCFICS with Respect to Tackling Food Fraud in the Context of Food Safety and Fair Practices in Food Trade*

The United States, as Chairperson of the EWG, introduced the work done to date on this topic. The CCFICS Chairperson noted that this work has strong interest in Codex and beyond. At CCFICS24, the Committee agreed to establish an EWG to consider the role of CCFICS in addressing food fraud in the context of food safety and fair practices in the food trade. The EWG used a questionnaire to gather

information that was used to develop a discussion paper, which served as the basis for the discussion at the plenary session. After initial discussion during the plenary session, an IWG was held to carefully review the project document with a view to improve clarity, taking into account the views expressed during the plenary. The revised project document was brought back to the plenary session for further review.

The Committee acknowledged the complexity of the food fraud area and the many touch points with other Codex Committees. The Committee discussed many general aspects of the document. Members voiced support for the new work and agreed it was important to maintain the scope of the work consistent with the mandate of CCFICS. The Committee recognized there were other documents that mentioned food fraud, and it was agreed that the work of the EWG should note other Codex documents that might need to be updated when the work of the EWG was completed. Some members expressed concern that the work should be focused on control within an existing NFCS and not broadened to address topics outside of the CCFICS mandate, such as criminal actions.

Several comments addressed the mention of intentional adulteration in the paper. It was agreed that intentional adulteration would be removed, because it would be covered by the more general term food fraud.

Within the section of the project document titled, “The main aspects to be covered,” the Committee had a lengthy discussion regarding the appropriate focus of the work. The Committee agreed to focus the work on the roles and responsibilities of the competent authorities and food business operators in addressing food fraud and provide guidance on how countries can address food fraud within a NFCS.

The review done by the EWG of existing Codex texts identified that food fraud is covered in a variety of Codex documents. The Committee agreed that the EWG should consider the existing guidelines when developing the food fraud guideline and may recommend areas where existing text could be revised. The Committee also recognized the widespread interest in the work among Codex members and agreed to keep other relevant Codex Committees informed of the progress of the work.

In conclusion, CCFICS25 agreed to begin new work and forward the project document to CAC44 for approval. An EWG will be established, working in English and Spanish, Chaired by the United States and Co-Chaired by China, EU, Iran, and the United Kingdom, to prepare draft guidance on the prevention and control of food fraud.

### *Emerging Issues*

#### **1. Review and Update of Appendix A – the List of Emerging Global Issues**

Australia introduced the discussion paper, prepared in collaboration with Canada. The purpose of this agenda item is to facilitate a strategic, outward looking discussion around emerging issues and potential challenges to identify areas of potential CCFICS projects. Appendix A contains a list of emerging global issues that could be analyzed to inform the future work of CCFICS while Appendices B and C were intended to assist in prioritization.

The Committee agreed to continue to keep the list as a standing agenda item for future CCFICS meetings and to rotate custodianship of the lists. The Committee also noted support for limiting the topics on Appendix A to topics within the mandate of CCFICS.

Canada stepped aside as co-lead for this workstream. Australia will continue as co-lead and Kenya will step in as co-lead.

## **2. Use of Information and Communication Tools (ICT) in regulatory frameworks**

Australia introduced a discussion paper regarding ICT in a regulatory framework. The Committee recognized the importance of alternative verification measures in the current trading environment. Some Members stated that the focus of the project should not be on tools, but on remote verification; the United States agreed the project should be refocused. There was wide support from the Committee to support this proposal with the revised title, “Use of remote audit and verification in regulatory frameworks.” The Committee supported establishing an EWG to develop a discussion paper, with the possibility of developing a project document, with Australia as Chair and Canada and Singapore as Co-Chairs.

## **3. Guidance on traceability and product tracing**

The United States introduced a discussion paper, co-authored by the United Kingdom, regarding traceability and product tracing. Codex currently has a guideline on traceability and product tracing; however, it was developed more than fifteen years ago and it is timely to revisit it. The existing guideline provides principles and focuses on one-up/one-back traceability. Emerging technology supports end-to-end traceability, which provides greater consumer protection and reduces economic harm to food businesses. The Committee supported the proposal to establish an EWG to develop a discussion document and a possible new project document for CCFICS26 to consider whether the *Principles for Traceability/Product Tracing as a Tool within a Food Inspection and Certification System* (CXG 60-2006) needs to be revised and updated. The United States will Chair the EWG and the United Kingdom will serve as Co-Chair.

### **Next Session**

The 26<sup>th</sup> Session of CCFICS is tentatively scheduled to take place in Australia in November 2022, with the final arrangements being subject to confirmation by the Host Government in consultation with the Codex Secretariat.