



## Report of the U.S. Delegate, 24<sup>th</sup> Session, Codex Committee on Food Import and Export Inspection and Certification Systems

October 22-26, 2018  
Brisbane, Australia

The 24<sup>th</sup> Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS24) convened October 22—26, 2018 in Brisbane, Australia. The session was chaired by Australia and attended by delegates from 41 Member countries, one Member Organization (the European Union) and four international intergovernmental and non-governmental organizations, including the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). The United States was represented by U.S. Delegate Mary Stanley, USDA Food Safety and Inspection Service; U.S. Alternate Delegate Caroline Smith DeWaal, U.S. Food and Drug Administration; 10 government advisors and one non-government advisors.

This year's meeting took on a different format from previous years and included two in-session working groups to: (1) develop the draft project document for new work on consolidating Codex guidance on equivalence and (2) resolve substantial editorial and technical comments on the draft guidance on regulatory approaches to third party assurance schemes in food safety and fair practices in the food trade.

### Highlights

The 24<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 42<sup>nd</sup> session of the Codex Alimentarius Commission (CAC42, July 2019) for adoption at Step 5 and establish an electronic working group (EWG), chaired by the United Kingdom, co-chaired by Canada and Mexico, to consider comments submitted at Step 6.
- Re-established an EWG, chaired by New Zealand, co-chaired by Chile and the United States, to continue work on developing *Guidance on the Use of Systems Equivalence*; and to start new work on consolidation of all Codex guidance related to equivalence.
- Re-established an EWG, chaired by the Netherlands, co-chaired by Australia, to revise the *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CAC/GL 38-2001) to include guidance on paperless certification;
- Established an EWG, chaired by the United States, and co-chaired by the European Union and the Islamic Republic of Iran, to further consider the role of CCFICS with respect to tackling the challenge of food fraud in the context of food safety and fair practices in the food trade, conduct a comprehensive analysis of

existing relevant Codex texts within and outside of CCFICS, and prepare a discussion paper on *Food Fraud* for consideration at the 25<sup>th</sup> Session of CCFICS (CCFICS25, 2020).

- Agreed to consider *Emerging Global Issues (Discussion Paper on Consideration of Emerging Issues and Future Directions for the Work of CCFICS—Appendix A)* as a standing document under the agenda on “*Emerging Issues and Future Directions for the Work of CCFICS*”; and to pilot application of the prioritization tool (*Discussion Paper on Consideration of Emerging Issues and Future Directions for the Work of CCFICS—Appendix B*) and the tool assisting members drafting a proposal for new work for consideration by CCFICS (*Discussion Paper on Consideration of Emerging Issues and Future Directions for the Work of CCFICS—Appendix C*) on a trial basis.

A summary of the discussion of these items and other matters considered by the Committee is presented below. The official report of the 24<sup>th</sup> Session of CCFICS can be found at <http://www.codexalimentarius.org/meetings-reports/en>.

## Meeting Summary

### *Guidance on the Use of Systems Equivalence*

New Zealand introduced and provided an overview of the process followed by the EWG, which had held two intersessional Physical Working Group (PWG) meetings using webinar technology in addition to conventional email-based discussions. New Zealand summarized the recommendations of the EWG and proposed that the Committee first consider the proposed draft guidance document before discussing recommendations for advancing the work on equivalence.

The Chairperson informed the Committee that Agenda Item 4 was closely related to Agenda Item 10.1, “Discussion paper proposing to consolidate and modernize guidance on the use of equivalence.” This discussion paper, supported by the three EWG Co-Chairs, Chile, New Zealand and the United States of America, contained a proposal for amendment of the approved project document for the ongoing work on guidance on the use of systems equivalence, addressing the recommendation to merge the draft standard on the use of systems equivalence, once finalized, with the other two existing Codex guidelines related to equivalence (i.e., *Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems* (CXG 34-1999) and the *Guidelines on the Judgment of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems* (CXG 53-2003)), making any relevant consequential amendments.

The Chair supported the proposal of the EWG Chair to first consider the proposed draft guidance, to be followed by discussion for advancing the work to consolidate and



modernize guidance on the use of equivalence. Chile and the United States commended New Zealand's leadership, acknowledged the need for further work and supported the Chair's proposed approach to the discussion of the EWG report.

*[New title] Proposed draft guidelines on recognition and maintenance of equivalence of National Food Control Systems (NFCS)*

The Committee reviewed the draft guidelines paragraph by paragraph and made editorial amendments as well as general comments to inform the further drafting of the proposed guidelines:

#### Section 1 — Preamble/Introduction

It was clarified that the term "level of protection" applied to the SPS Agreement and not the TBT Agreement, thus "TBT" should be deleted from Footnote 3.

#### Section 3 — Definitions

The Committee agreed that the existing CCFICS definitions be used and that new definitions should be concise and exclude principles. There was a need to examine the use of terms for consistency. The Committee recommended that the need for the use of the terms [Equivalence] and [System Equivalence] be further considered, and therefore placed them within square brackets. Other terms such as "assessment of systems equivalence" should be used across the text for consistency in case of "equivalence of systems assessment".

#### Section 4 — Principles

It was clarified that in general, the principles set out under Section 4 provided a good road map to the implementation of recognition and maintenance of equivalence of National Food Control Systems (NFCS); and that they should not contradict the *Principles and Guidelines for National Food Control Systems* (CXG 82-2013); *Principles and guidelines for the exchange of information between importing and exporting countries to support the trade in food* (CXG 89-2016).

## Section 5—Process Steps

The United States noted significant overlap between Section 5 and existing Codex texts on equivalence (e.g., *Guidelines for the Development of Equivalence Agreements Regarding Food Imports and Export Inspection and Certification Systems* (CXG 39-1999) and *Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Inspection and Certification Systems* (CXG 53-2003). The following points were highlighted for consideration:

- The terms used in the text should be clear and consistent and may need further explanation (e.g., “recognition” as used in the SPS Agreement vs. “determination” as used in *Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Inspection and Certification Systems* (CXG 53-2003); “initial discussion” vs. “preliminary consideration”).
- Which country should take the lead in all relevant steps, including preliminary consideration, should be clarified.
- Decision criteria should be established in a cooperative manner between the importing and exporting countries. The European Union noted the decision criteria could consider the FAO/WHO Food Control System Assessment Tool and added as a separate questionnaire.
- The need for examples (e.g., possible indicators) in the current draft guidelines was noted, as were concerns raised regarding how examples should be used in CCFICS texts.
- Cuba noted that the decision-making process should be transparent and take into account the level of development of different countries.

The guidelines should not put a heavy burden on the importing country, in particular to provide evidence on how its NFCS met the objectives. Figure 1 should be revised after redrafting to consider the need for additional information in the steps (e.g., reasons for non-equivalence and how to overcome these) and possible simplification, and to ensure that it was consistent with the steps in the text.

### *New project document*

There was an exchange of views among delegates regarding the process and the next steps of the complex work related to consolidating Codex guidelines on equivalence, emphasizing the importance that a consolidated document be practical and avoid overlap and duplication. The Codex Secretariat informed the Committee that the project document for the work under way stated that “as a consequence of this new work,

modification of existing texts might be necessary.” Consolidation could therefore be considered as covered by the current project document. However, if the Committee wished to revise the current project document or develop a new one to expand the work and clarify the process, then the new work proposal should be submitted to CAC for approval.

Several delegations emphasized the need for clarity and transparency, including for those countries not present at CCFICS24, and requested a new project document to address the consolidation of the texts. The Committee prepared a draft project document for new work on consolidating Codex guidelines on equivalence during an in-session working group.

The Committee agreed to:

(i) return the proposed draft guidelines on recognition and maintenance of equivalence of National Food Control Systems to Step 2 for redrafting to take into account the comments made and/or submitted at CCFICS24, followed by circulation for comments at Step 3 with the intention to advance the draft guidance to adoption in line with the timeframe in the original project document (REP17/FICS, Appendix III);

(ii) start new work on updating and consolidating Codex guidelines related to equivalence (Appendix II) and to submit the project document for approval at CAC42 (July, 2019); and

(iii) re-establish the EWG, chaired by New Zealand, co-chaired by Chile and the United States of America and working in English only, with the possibility of convening physical working groups, including immediately prior to CCFICS25 (2020), to:

a. continue to develop the draft guidelines on recognition and maintenance of equivalence of NFCs for circulation for comments at Step 3 and consideration at CCFICS25 (2020); and

b. commence the consolidation of all Codex guidance related to equivalence (Appendix II) and subject to approval by CAC42 (July, 2019), prepare a proposal for circulation for comments at Step 3 and for consideration to CCFICS25 (2020).

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

The representative of the Netherlands, as Chair of the EWG, introduced the report, recalling that discussion on paperless certification had been under way since CCFICS21 (2014), and emphasizing that the draft guidance before the Committee,

based on *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38-2001), was not intended to serve as an implementation manual for paperless certificates, but as a tool to help build confidence and enable countries to go paperless. The Co-chairs (Netherlands and Australia) proposed that the Committee first consider Annex II with a view to clarifying some issues which would in turn inform the revision of the main text of the *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* – (CXG 38-2001).

Participants made extensive editorial and technical comments on the proposed draft Annex II (Requirements, responsibilities and data model for paperless exchange of official certificates) and then decided to refocus the discussion on broader aspects to provide general comments to inform the EWG for further drafting of the proposed guidelines. The Committee noted the following potential focus areas for future work:

- a. While the text was generally acceptable, it should be revised in line with established Codex style to ensure consistency and clarity and remove repetition. The general guidance should highlight general principles and be written in plain language readily understood by users, avoiding excessive technical detail.
- b. Provisions are needed to clarify the following aspects: the paper-to-paperless transition; validation of certificate authenticity; data protection, retention and confidentiality; the handling of electronic certificates in situations such as export/import rejection and/or redirection/re-consignment of goods in transit; and the handling of invalid certificates, etc.
- c. References to relevant WCO work and tools should be added to Annex II.
- d. In the light of the intersection between competent authorities and the Single Window System, the document should address the elements of the different systems used by countries and contain additional detail to provide flexibility to countries.
- e. Consider definitions consistent with *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38-2001).
- f. The work should focus on developing guidelines for e-certificates and resolving issues that would facilitate the paperless use of e-certificates.

In response to a query regarding the status of references associated with the source of definitions, the Codex Secretariat clarified the references were often included in texts during drafting to indicate the source of a definition but removed once finalized. However, such information could be retained in the final text if so required, for example, as a footnote, with a clear articulation of its relationship to the body text. It was noted



that work was under way by the Codex Secretariat on the harmonization of the use of references across Codex committees.

The Committee agreed to:

- (i) return the proposed draft guidance on paperless use of electronic certificates (revision of the *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38-2001)) to Step 2 for redrafting taking into account comments received in writing and the discussion at CCFICS24 (2018);
- (ii) re-establish the EWG, chaired by the Netherlands, co-chaired by Australia and working in English only, to continue the drafting of the proposed draft guidance on paperless use of electronic certificates (revision of the *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38-2001)) for circulation for comments at Step 3 and consideration at CCFICS25 (2020); and
- (iii) convene a PWG, chaired by the Netherlands, co-chaired by Australia, working in English, French and Spanish, and meeting immediately prior to the next session (CCFICS25 2020) to consider the report of the EWG and prepare recommendations for the plenary session.

### ***Guidance on Regulatory Approaches to Third Party Assurance Schemes in Food Safety and Fair Practices in the Food Trade***

As Chair 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 CCFICS23 (2017) and introduced the draft for the Committee's consideration at Step 3, underscoring that it sought to incorporate sufficient flexibility to reflect the diverse needs, motivations and capabilities among Codex Member countries regarding the use of vTPA to inform and complement their NFCSs but did not compel Competent Authorities to take this approach.

The Committee held a general discussion followed by a preliminary technical discussion on the proposed draft guidance with a view to determining whether to hold an in-session working group. During the General Discussion, delegations emphasized the critical importance of Codex work on vTPA to advise governments on the potential value of the approach and ensure the integrity and competence of such systems should they be adopted. Several delegations, including one Observer organization, noted that vTPA could help countries better focus their resources on risk-based inspections, protect consumer health, and bridge gaps when importing and exporting countries' food-safety assurance requirements and capacities were not aligned.



The United States, supported by Brazil, noted that vTPA could enhance risk management, cautioned that it must not replace official government inspections or become obligatory. It was noted that the draft guidance could be improved by better articulating specific methods for information management to meet competing demands. In response to comments and queries regarding the generation, ownership and use of data relating to individual food business operators (FBOs), the EWG Chair confirmed that, while such data generated by vTPA programs belonged to FBOs, experience had demonstrated that the aggregate data subsequently generated by vTPA program owners could valuably inform NFCSs.

Japan requested that presentations on the use of vTPA given during the PWGs and the CCFICS24 side event be kept as Codex information documents for the benefit of the Committee.

Following a preliminary discussion on the preamble, scope and principles, the Committee agreed to convene an in-session working group to resolve the substantial editorial and technical comments. This was led by the EWG Co-Chairs (United Kingdom, Canada and Mexico). The plenary considered the proposed draft guidance document as revised by the in-session working group and made further editorial amendments for clarity and consistency, including the definitions section.

The Committee agreed to forward the proposed draft principles and guidelines for the assessment and use of voluntary third-party assurance programs (see Appendix III) to CAC42 (2019) for adoption at Step 5. An EWG was also established, with the possibility of convening physical working groups, including immediately prior to CCFICS25 (2020), chaired by the United Kingdom and co-chaired by Canada and Mexico, working in English and Spanish, to consider comments submitted at Step 6 as well as all outstanding issues, including comments made at CCFICS24 (2018).

### *Discussion Paper on Food Integrity and Food Authenticity*

The representative of the EU, as Co-Chair of the EWG on Food Integrity and Food Authenticity, introduced the discussion paper, which contained:

- (i) definitions of food integrity, food authenticity, food fraud and economically motivated adulteration (EMA);





- (ii) an analysis of how different CCFICS texts took into account the issues around food integrity and authenticity;
- (iii) a number of areas where further work may be justified; and
- (iv) recommendations for the Committee's consideration based on inputs from the EWG.

There was a wide-ranging discussion in which many delegations engaged. Recognizing that CCFICS may have a role to play in this area, the Committee noted that horizontal guidance should be carefully considered since several existing Codex texts already addressed relevant issues. Any future CCFICS work in this area should be refined to avoid duplication with existing texts and well defined within the CCFICS mandate, taking into account the discussion held in 2008 on the prevention of intentional contamination of food (<https://tinyurl.com/yyye37j4>). It is noted the United States prepared and introduced the discussion paper, initially for discussion during CCFICS 16 (2007), and again for CCFICS 17 (2008). In addition, delegates expressed the views that further consideration of relevant definitions may be needed and CCFICS could consider seeking advice from the Commission in that regard, including which Codex body or bodies had the expertise. Some delegations considered that this could be done following initial consideration by the EWG. While other Codex committees are awaiting the outcome of the discussion in CCFICS on food integrity and food authenticity, it was noted that CCFICS could elaborate a range of guidance, including: what types of risks competent authorities should consider when designing control programs; exchange of information and cooperation between different authorities at the national and international levels; communication with stakeholders and the general public on food fraud incidents; and measures targeting food fraud.

The Committee agreed to establish an EWG, chaired by the United States of America and co-chaired by the EU and the Islamic Republic of Iran, working in English only, to:

- (i) further consider the role of CCFICS with respect to tackling the challenge of food fraud in the context of food safety and fair practices in the food trade; and
- (ii) conduct a comprehensive analysis of existing relevant Codex texts within and outside of CCFICS to avoid overlapping or intrusion onto the mandate of other Codex general subject or commodity committees, noting that a number of related Codex texts existed within and outside of CCFICS.

Should the EWG identify gaps in existing CCFICS texts, it may propose new work, within the scope and mandate of CCFICS, for consideration at CCFICS25; consider what definitions need to be developed; and propose definitions that may be needed in any future project document, consistent with existing Codex texts, scope and mandate for use in prospective project documents as appropriate.

The results of the discussion and any proposals for new work in CCFICS would not preclude other Codex Committees from initiating new work that may complement the work of CCFICS falling within the scope and mandate of their respective Committees.

It is noted the Committee agreed to inform CCEXEC, the Commission and its subsidiary bodies, including CCGP, of its ongoing discussions on this subject.

### *Consideration of Emerging Issues and Future Directions for the Work of CCFICS*

Australia introduced the discussion paper, prepared in collaboration with Canada, recalling the topic had been under consideration since CCFICS 20 (2013). The objectives include facilitating forward-looking strategic discussion on emerging global issues, and conducting a regular horizon-scanning exercise to identify potential future issues, challenges and advances (Appendix A). During the discussion, it was clarified that Appendix A contained the list of emerging global issues that could be analyzed to inform the future work of CCFICS while Appendix B and C were intended to assist in prioritization only and their use was not compulsory; and that they could be used where there were multiple proposals.

A delegation proposed that CCFICS should consider establishing a mechanism like that in CCFH for receiving and evaluating proposals. Such a mechanism would involve the Codex Secretariat issuing a Circular Letter (CL) requesting for Proposal for new work; and that each session, CCFICS would evaluate and rank the proposals in order of priority.

The Committee agreed to:

- (i) consider Appendix A (Emerging global issues) as a standing document under the agenda on “emerging issues and future direction of CCFICS,” noting the need for analysis and periodic update;
- (ii) rotate the custodianship of Appendix A commencing at the next session (CCFICS25, 2020) through members on a meeting-by-meeting basis;
- (iii) review the list included in Appendix A at CCFICS25 (2020);
- (iv) pilot the application of the prioritization tool (Appendix B), and the tool assisting members drafting a proposal for new work for consideration by CCFICS (Appendix C), on a trial basis, and revisit these Appendices at CCFICS25 (2020); and
- (v) await the outcome of CCFH50 (2018) discussion on guidance on the management of (micro)biological foodborne crises/outbreaks before embarking upon a discussion on this topic within CCFICS.

### *Assessment of the Experimental Approach for Intersessional Physical Working Groups*

Several delegations welcomed the initiative of integrating webinar technology into PWGs as an innovative process that had generally increased participation, and could serve as a useful tool for future meetings. Webinars enhanced access, inclusiveness and participation by providing an opportunity for countries to participate remotely, with significant cost savings in terms of travel, thereby remaining fully up-to-date on the progress of discussions to inform national preparations for the subsequent plenary session.

Some delegations, including Brazil, Kenya, and Japan noted that the document (CX/FICS 18/24/9) may not have clearly reflected all challenges encountered during the trial, which would impact the assessment of participation and effectiveness. It was also noted that experience had varied among countries. Challenges encountered in the use of the technology included: some technical issues; the social dimension (remote participants missing out on informal discussions during breaks); situational awareness (lack of clear identification of participants in the room, lack of clarity on when to intervene); global time-zone differences; and excessive length of sessions/computer fatigue.

It was unclear why more countries had not participated in the PWG webinar pilot. Analysis could be conducted on why countries were not able to connect/or participate in the webinars, and time management during meetings could be improved.

Kenya raised the separate issue that developing countries, especially in the CCAFRICA region, faced challenges in using the Codex Online Commenting System (OCS), noting that it seemed rather complicated to use.

The Codex Secretariat drew attention to its significant capacity-building initiatives to support participation in Codex work via online tools, recalling the four recently conducted regional training workshops on the use of Codex online tools, including the OCS, Online Registration System and the EWG platform, and noting that additional workshops would be held soon. Besides in-person workshops, the Codex Secretariat also offered remote-online training on the use of Codex webtools, via webinar or Skype. Members were encouraged to request additional online training on such tools.

The Committee agreed to inform CCEXEC that:



(i) webinar technology had the potential to enhance participation in and the inclusiveness of Codex meetings and that challenges and/or lessons learned from this pilot exercise should be taken into account when considering its deployment in Codex committee work; and

(ii) analysis was required to better understand the barriers to participation and how to overcome them.

The Committee recommended that Codex continue to explore the challenges and advance the possible use of webinar technology in its work.

### **Next Session**

The 25<sup>th</sup> Session of CCFICs is tentatively scheduled to take place in Australia from 27 April to 1 May 2020, with the final arrangements being subject to confirmation by the Host Government in consultation with the Codex Secretariat.