

**codex alimentarius commission**

FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD HEALTH  
ORGANIZATION

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CX 4/10

ALINORM 89/33

**JOINT FAO/WHO FOOD STANDARDS PROGRAMME**

**CODEX ALIMENTARIUS COMMISSION**

**Eighteenth Session**

**Geneva, 3-12 July 1989**

**REPORT OF THE NINTH SESSION OF THE CODEX COMMITTEE ON GENERAL  
PRINCIPLES**

**Paris, 24-28 April 1989**

## Summary and Conclusions

The Ninth Session of the Codex Committee on General Principles reached the following conclusions during its deliberations:

- recommended that the Commission approve a policy decision with respect to Rule III.1 of the Commission's Rules of Procedure reflecting the current practice of the Executive Committee, (paras 13-17);
- agreed to forward the Revised Guidelines for Acceptance of Codex Standards to the Commission for adoption, (para 36);
- agreed that proposals for the amendment of the Codex Elaboration Procedures concerning the acceptance of standards by regional economic groupings be forwarded to the Commission for adoption, (para 43 and Appendix II);
- agreed to adopt and forward to the Commission for endorsement recommendations 1-3 of the Executive Committee concerning the relationship between Codex and the General Agreement on Tariffs and Trade. The Committee also agreed to adopt recommendation 4 of the Executive Committee in principle, pending the publication of a revised working paper for presentation to the 36th Session of the Executive Committee, (para 29);
- agreed to recommend to the Commission that the terms of reference of the Regional Coordinating Committees be aligned. The Committee also agreed that the terms of reference should include a mandate "to promote the acceptance of Codex standards by countries of the Region", (paras 47);
- agreed to recommend that the Commission adopt a policy statement for future guidance concerning Procedures for Accelerated Elaboration to Meet Emergencies, (para 55);
- agreed to refer the question of format for tropical fresh fruits and vegetables back to the Committee on Tropical Fresh Fruits and Vegetables (CCTFFV), with a request that the Codex format should be respected in regard to those matters not dealing exclusively with commercial quality, (para 60);
- agreed that there was no need for amendments to the Procedural Manual concerning acceptance procedures for tropical fresh fruits and vegetables. The Committee also agreed that Governments, in indicating the acceptance of such standards, should notify the Commission which provisions of the standard were being accepted for application at the point of import, and which were being accepted for application at the point of export, (paras 65-66);
- in this regard it confirmed that current Codex procedures for the elaboration of World-Wide Codex Standards did not need amendment, as they provided adequate procedures for collaboration with other interested international organizations. However, the Committee agreed that provisions relating to the role of UNECE in the elaboration of standards be included as a note to the Codex Elaboration Procedure, (para 69);
- agreed that the Committee's opinion concerning liaison with the OECD should be brought to the attention of the Commission, (para 73);
- endorsed the proposed Procedures for the Elaboration of Codex Maximum Residue Levels for Veterinary Drugs with the understanding that the use of the terms "level" and "limit" would be discussed at the 18th Session of the Commission and that any

change made by the Commission to the procedures concerning acceptance by international organizations would be applied equally to the procedures for residues of veterinary drugs, (paras 76-80);

- endorsed the proposed Procedures for the Acceptance of Recommended Codex Maximum Residue Levels for Veterinary Drugs in Foods with the understanding that any action taken by the Commission concerning the examination of types of acceptance of maximum limits for pesticide residues (see below) would be applied automatically to the acceptance procedures for residues of veterinary drugs, (para 80);
- referred the proposed definitions of "maximum residue level" and "good practices in the use of veterinary drugs" to the Commission, without a decision regarding endorsement, (paras 81-86);
- recommended that the forms of acceptance for maximum residue levels for pesticides and veterinary drugs be limited to Full Acceptance and Free Distribution, and that the use of Limited and Target Acceptance be discontinued, (paras 87-93);
- agreed that the draft Manual of Policy Decisions should be reviewed and up-dated by secretariats from the host countries of Codex Committees and the the Codex Secretariat, (paras 94- 96);
- made recommendations to the Commission aimed at strengthening the Commission's activities to coordinate the work on food standards undertaken by other international organizations, (paras 97-101);
- noted the amendments proposed by the Codex Committee on Food Labelling in relation to changes to the sections in the Procedural Manual dealing with the Relations between Codex Commodity Committees and General Subject Committees (Guidelines on Labelling Provisions in Codex Standards and the Format of Codex Standards, (para 102).

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## **INTRODUCTION**

1. The Codex Committee on General Principles held its Ninth Session in Paris, 24-28 April 1989, under the Chairmanship of Professor Jean-Jacques Bernier, President of the National Codex Alimentarius Committee.
2. The Session was attended by 58 delegates from 25 countries and 15 observers from 10 international organizations. A complete list of participants is given as Appendix I to this Report.
3. The Session was opened by Mr. Guthmann, Directeur de Cabinet, on behalf of Mme Neiertz, State Secretary for Consumption, Ministry of Finance. Mr. Guthmann recalled the origin of the Codex Alimentarius Commission which had followed the creation, in Paris in 1958, of a European Council for the Codex Alimentarius, which was the first effort to internationalize the idea of consumer protection. The subsequent creation of the Codex Alimentarius Commission in 1962 by FAO and WHO meant that the establishment of standards to protect the consumer and to facilitate international trade would be assured in a dynamic manner which could be adapted to the constantly changing needs and techniques of food production, processing and distribution.
4. Mr. Guthmann drew attention to the practical aspects which the Commission took into account in examining food production, quality control and safety: quality of the raw materials and their freedom from contamination or excess residues; good manufacturing practices, for example in the use of additives; consumer information through labelling; and control of the final product by established methods of sampling and analysis. Finally, Mr. Guthmann called upon the Committee to recall the original principles of the Codex Alimentarius as a service to all developed and developing countries, producers, distributors and consumers.

## **ADOPTION OF THE AGENDA (Item 2)**

5. The Committee adopted the Provisional Agenda CX/GP 89/1 as its Agenda for the Session. Upon the proposal of the delegation of Switzerland, it was agreed to discuss Item 5(b) ("Acceptance of Standards of Regional Economic Groupings") before 5(a) ("Guidelines for Acceptance of Codex Standards").

## **MATTERS ARISING FROM THE SEVENTEENTH SESSION OF THE CODEX ALIMENTARIUS COMMISSION AND OTHER CODEX BODIES (Item 3)**

6. The Committee had before it Working Paper CX/GP 89/2, and noted that most matters of interest were scheduled for discussion by the Committee under other relevant agenda items. The Codex Secretariat also gave an oral report on matters of interest arising from the recently concluded Codex Committee sessions on Food Labelling, Food Additives and Contaminants and Pesticide Residues.

### **Codex Guidelines on Labelling Provisions in Codex Standards**

7. The Committee noted that the Codex Committee on Food Labelling had agreed that most sections of the Codex Guidelines on Labelling Provisions in Codex standards repeated those contained in the General Labelling Standard, and in only a few cases provided additional guidance to Codex Committees (paras 31-37 and Appendix IV, ALINORM 89/22). As a consequence, the Labelling Committee agreed to propose the elimination of the majority of the Guidelines while retaining relevant optional sections (i.e. date-marking and storage instructions, non-retail container labelling) for inclusion in the Procedural Manual under "Relations between Commodity Committees and General Committees".

8. At the suggestion of the delegation of Norway, the revised Procedural Manual Section (Appendix IV, ALINORM 89/22) was distributed to the Committee for information as Conference Room Document 3. The Committee decided to take up further discussion of this matter under agenda item 13, Other Business.

#### Consideration of the Joint FAQ/WHO Proposed Levels for Radionuclide Contamination of Food in International Trade

9. The Committee noted recent discussions at the Codex Committee on Food Additives and Contaminants (CCFAC, paras. 27-38, ALINORM 89/12A) concerning the proposed levels. This subject was also discussed at the Seventeenth Session of the Commission (paras. 34-53, ALINORM 87/39) as well as the Thirty-fourth (paras 27-28, ALINORM 87/4) and Thirty-fifth (paras. 18-20, ALINORM 89/3) Sessions of the Executive Committee.

10. At the CCFAC meeting, in response to comments from some countries concerning values proposed which these countries considered to be too high, representatives of FAO and WHO indicated that the proposals were intended to apply in the case of accidental contamination of foods, and the CCFAC decided to reflect this in the title of the revised document. The CCFAC also decided to establish separate recommendations for infant foods, and agreed that matters related to sampling and analysis techniques should be considered at a future date. The CCFAC decided to forward the revised proposals to the Eighteenth Commission Session. The revised document is being circulated for comments as ALINORM 89/11.

11. The delegate of Argentina welcomed FAO and WHO deliberations in this area, and suggested that the proposed levels could be revised and adjusted in the future.

#### Other Matters of Interest

12. The Committee decided to discuss other matters of interest under their respective agenda items.

#### **COMPOSITION OF THE EXECUTIVE COMMITTEE (Item 4)**

13. The Committee had before it document CX/GP 89/3, prepared by the Secretariat following the request of the Seventeenth Session of the Commission that the Committee examine the composition and procedures of the Executive Committee, especially with regard to regional representation. The paper did not recommend any change in the Rules of Procedure, but indicated that the practices of the Executive Committee had evolved, especially over recent years, such that its members which were the elected Representatives of geographical locations or regions were more frequently accompanied by advisors at the Executive Committee's Sessions. This was seen as a positive trend, allowing more senior officials to take part in the Executive Committee's work.

14. The Committee welcomed the paper and supported its general conclusions. Many delegations, however, expressed the opinion that there was a need to provide a clear statement, possibly as an annotation or a footnote to Rule III.1, which would outline the role of advisors at meetings of the Executive Committee. It was agreed that such a note should reflect current practice, and also indicate the restrictions which should apply to the participation of advisors.

15. The Committee recognized that certain members of the Executive Committee, viz., the Chairman and the three Vice-Chairmen, were elected to the Committee as individuals. Representatives of the geographical locations described in Rule III.1

however, were elected on a country basis and this had been the practice since the first session of the Commission.

16. The Committee also recognized that there would be extreme difficulty in amending Rule III.1 in order to clarify its meaning and to reflect current practice. Nevertheless it was agreed that a written statement, perhaps for inclusion in the proposed Manual of Policy Decisions (see also paras. 95-97 below), should be prepared. On the advice of the Representatives of the Legal Counsels of FAO and WHO, the Committee therefore recommended that the Commission approve the following understanding with respect to Rule III.1 of the Commission's Rules of Procedure, reflecting the current practice of the Executive Committee:

1. Except for the Chairman and the three Vice-Chairmen, the six further members of the Executive Committee elected by the Commission to represent the geographic locations are countries and not individuals.
2. The delegate of a Member may be accompanied by not more than two advisors from the same geographic location,
3. Regional Coordinators shall be invited to attend meetings of the Executive Committee as observers.
4. Only members or, with the permission of the Chairman, observers, may take part in the discussions.

17. During the course of the discussion the delegation of Norway drew attention to the usefulness of consultation and feedback between the regional representative and the countries of the region which were being represented. The Committee was informed that practices in this regard varied from region to region, and that the regional Coordinating Committees were of considerable assistance in this regard.

#### **THE RELATIONSHIP BETWEEN THE CODEX ALIMENTARIUS COMMISSION AND THE GATT COMMITTEE ON TECHNICAL BARRIERS TO TRADE (Item 5)**

18. The Committee had before it working paper CX/GP 89/6, which provided a summary and background of the relationship between the Commission and the GATT Committee on Technical Barriers to Trade. The paper also highlighted discussions and recommendations arising from the 35th Session of the Executive Committee (paras. 35-37, ALINORM 89/3) concerning this subject. The Committee noted written comments received from Finland, New Zealand, Thailand and the United States of America in Conference Room Documents 1 and 2.

19. The Committee welcomed the participation of a representative from the GATT Agriculture Division during its discussions on this issue. The GATT Representative summarized recent deliberations of the Negotiating Group on Agriculture in the current GATT Uruguay Round, where a Working group on Sanitary and Phytosanitary Measures had been established. The Working Group, which met twice in the second half of 1988, endorsed the harmonization of national sanitary and phytosanitary regulations as a long term goal, through a work programmes embodying several objectives. The seven objectives of the Working Group were circulated to the Committee for information, and are included as Appendix IV to this Report.

20. The delegations of the United Kingdom, France, Denmark, Belgium and the Federal Republic of Germany referring to the proposals contained in CX/GP 89/6 felt that confirmation of the Executive Committee recommendations, especially those related to revisions of the notification system and the Codex Procedural Manual, was premature.

Although the strengthening of the GATT/Codex relationship was felt to be a positive development, it was also suggested that the relationship between the respective organization's guidelines and procedures warranted further examination. The delegations of Belgium and Finland also noted that Codex standards and acceptance procedures were flexible and voluntary in nature, and in spite of the adoption of several standards and codes of practice by the Commission, the acceptance of these items by member countries of the CAC was insufficient. Some delegations expressed the hope that the strengthening of the GATT/Codex relationship would not have any negative influences on the flexibility and nature of Codex procedures. It was also indicated that GATT was not a standardizing organization, and therefore, its comments on Codex standards as well as perceived areas of duplication of effort were questioned.

21. The delegations of the United Kingdom, Switzerland and France requested clarification as to the effect and consequences of the GATT Working Group objectives on Codex deliberations. The delegation of the Federal Republic of Germany also asked if the validity of Codex standards could be questioned by GATT and requested clarification as to which Codex body would provide advice to GATT. Clarification was also sought as to GATT procedures in the event of a dispute in which Codex standards and those of other international organizations had been referred to, but which differed.

22. The observer of the EEC declared that in the framework of a global positive consideration, recommendations no. 1 and 2 of the Executive Committee concerning the avoidance of duplication of effort, were acceptable. However, the recommendations concerning the notifications have been felt to be premature and consequently the revision of the Codex Procedural Manual was felt to be irrelevant at this stage.

23. Support for the endorsement of the Executive Committee recommendations was expressed by the delegations of the United States, Australia, Mexico, Norway, New Zealand, Canada, Sweden, Argentina and Brazil. The delegation of Norway noted that Codex standards were widely adopted and used, regardless of their acceptance by individual Codex member countries. It was noted that the Executive Committee proposals simply clarified the already existing Codex/GATT relationship, and therefore, a Procedural Manual reference to GATT was a logical step. The delegation of the United States supported this view, and noted that the proposed Procedural Manual reference would formalize the existing CAC/GATT relationship, thus permitting GATT to be fully informed during the standards' setting process of Codex and receiving each country's views on acceptance of established standards. It was also suggested that the reciprocal notification system be revised by the Codex and GATT Secretariats for submission to the Commission. The delegations of Australia and Mexico supported these statements and noted that by endorsing the proposals, the challenge of strengthening this relationship was a positive development. It was noted further that the proposals were not introducing major procedural changes, but were only strengthening the notion of a decrease in non-technical trade barriers to trade through the use of food standards. The delegation of Mexico also noted the importance of Codex standards for use in developing countries. The delegation of New Zealand emphasized the importance and use of sanitary and phytosanitary measures in Codex standards and codes of practice relating to meat hygiene and fish. The delegation of Canada supported a strengthened Codex/GATT relationship, especially in regard to "horizontal" issues, as this was the future direction of work of Codex. It was noted that Article 708 of the recently concluded US/Canadian Trade Agreement recognized Codex as an important standard setting body. The delegations of Sweden, Argentina and Brazil supported the confirmation of all Executive Committee proposals, with a view towards a strengthened GATT/Codex

relationship. The delegation of Austria supported the proposals, with the understanding that Codex procedures and standards were clearly understood by GATT, in that they are a valuable and flexible instrument of international harmonization.

24. The GATT representative provided further information and advice to the Committee concerning this matter. The Representative recognized that GATT was not a standardizing body, but a forum for trade discussions and dispute settlement. The Working Group on Sanitary and Phytosanitary Measures was established to prevent barriers to trade in this area, and the seven points of the group's work programme emphasized this aim. It was noted that GATT did not duplicate the standardizing work of other bodies, and therefore, that the competence of Codex and other standardizing international organizations in the areas of sanitary and phytosanitary measures was being recognized as a major element of the working group deliberations.

25. The GATT representative also explained that the mechanism for the exchange of information and notifications was in a preliminary stage, but nevertheless, the exchange in itself was felt to promote understanding through discussions and the attendance of observers at each others meetings. The exchange of information and notifications of acceptance between Codex and GATT was already taking place.

26. The GATT representative informed the Committee about the arbitration role of GATT, explaining that bilateral consultations were a first step in the process, and if unsuccessful, an independent GATT panel was established to study the issue. The panel report was submitted to the GATT contracting parties where it had to be adopted by consensus to take effect. The panel would rely on scientific expertise of Codex and other international organizations to help resolve the dispute. If the GATT panel was faced with conflicting international organization standards, the panel would not decide between the two, but would consider all information presented in the arbitration process. GATT was not obviously in a position to change Codex standards, and the flexibility and content of the standards or codes would be maintained, as the panel only decided whether or not the trade restriction was legitimate.

27. Under existing notification procedures, GATT members were also required to indicate to GATT if they were not using, or were in conflict with, Codex standards. Codex would continue to notify GATT of acceptances of Codex standards. The GATT representative concluded that the deliberations of the Working Group on Sanitary and Phytosanitary Measures regarding dispute settlement, as well as the procedures of the Committee on Technical Barriers to Trade, continued to be under review. The Committee expressed pleasure that the GATT Secretariat could attend the Session, and thanked the representative for the information provided.

28. The Codex Secretariat agreed that the working paper required updating to reflect the recent deliberations of the GATT Working Group and indicated that Codex had recently resumed its responsibilities related to the notification procedures. The transfer of information between parties and the use of Codex standards was felt to be an important aspect within the mandate of the Codex Alimentarius Commission. The improvement of the relationship between GATT, Codex and other international organizations was also recognized as an ongoing process which has already commenced. It was agreed that more information was needed in this area, and that the use of the recommendations of JECFA, JMPR and Codex related to quality control and safety by GATT was of paramount importance.

29. The Committee agreed to adopt and forward to the Commission recommendations 1-3 of the Executive Committee regarding the avoidance of

duplication of effort, the revision of the existing notification system and increased harmonization between parties. Although recommendation 4 regarding a Procedural Manual reference to GATT was accepted by the Committee in principle, because some delegations felt there was a need for more information, a final decision by this Committee was deferred pending the examination of a revised working paper at the 36th Session of the Executive Committee.

30. The recommendations of the Executive Committee are reproduced in Appendix V to this present report.

### **GUIDELINES FOR ACCEPTANCE OF CODEX STANDARDS**

31. The Committee had before it Appendix IV of ALINORM 87/33, which were the Draft Guidelines adopted by the Committee at its last Session. The Committee also noted written comments received from Poland, Thailand, United States (CRD 1), Finland and New Zealand (CRD 2).

32. The Committee noted that the revised guidelines had been endorsed by the Seventeenth Session of the Commission (para. 142, ALINORM 89/39) although the Commission had agreed that they should be circulated to governments for comments and re-submission to the Eighteenth Commission Session for adoption. The Guidelines were distributed for comments under Circular Letter 1988/55-GP.

33. The delegations of the United Kingdom and Switzerland indicated that the application of Types II, III and IV Codex Reference Methods of analyses was still subject to review, although it was agreed that the application of Codex Defining Methods of Analysis (Type I) was acceptable.

34. In addition, it was pointed out by the delegation of Sweden that the second part of the sentence in paragraph 19 was no longer applicable, as the recent Codex Committee on Food Labelling Session decided that the labelling sections of Codex standards should address the Codex General Labelling Standard in general terms. The Codex Secretariat also suggested the removal of paragraph 20, as it was no longer applicable in view of the recent publication of the Revised General Standard for the Labelling of Prepackaged Foods.

35. The Committee agreed to the revision of paragraph 19 and the deletion of paragraph 20. The Committee also noted that sections (b) through (d) of paragraph 22 were subject to further revision by the Committee on Methods of Analysis and Sampling. Noting that section (b) in particular seemed to be overly restrictive, the Committee decided to indicate its decisions in a footnote to this paragraph of the Guidelines.

36. The revised guidelines are included as Appendix III to this report. The Committee agreed to forward the revised Guidelines to the Commission for adoption.

### **ACCEPTANCE OF STANDARDS BY REGIONAL ECONOMIC GROUPINGS (Item 5 (b))**

37. Document CX/GP 89/6 on the above subject had been prepared by the Secretariat in consultation with the EEC, as had been requested by the Seventeenth Session of the Commission (ALINORM 87/39, para. 138).

38. The document contained proposed amendments to certain sections of the Procedure for the Elaboration of Codex Standards, Codes of Practice and Codex Maximum Limits for Pesticide Residues concerning notification of the acceptances of standards. The Secretariat drew attention to certain inaccuracies in the French and Spanish version of the proposals, and a small correction to the English text. The

Committee also noted the written comments of Finland, New Zealand, Thailand and the United States on the paper.

39. The observer from the EEC confirmed that the English version of the document should be taken as the basis of discussion and stated that the proposed amendments were acceptable to the European Community. However, in order to achieve the objectives, the observer also proposed that an "assimilation clause" should be included in paragraphs 4, 5, 6 and 7 of the General Principles of the Codex Alimentarius, which would mean that each mention of the word "country" where it appeared for the first time in these paragraphs would also be taken to mean international organizations to which their member states had transferred competence in the matter.

40. The delegation of Sweden raised the question whether amendments would be required to Rule VII of the Commission's Rules of Procedure, dealing with the role of observers. The Committee agreed that the proposals related only to notification of acceptance and in no way affected the role of observers from such international organizations or regional organizations at meetings of the Commission or its subsidiary bodies.

41. The Legal Advisors from FAO and WHO expressed their opinions that the inclusion of an assimilation clause in paragraphs 4, 5, 6 and 7 of the General Principles would have substantial implications in respect of the concepts of jurisdiction and territorial application which applied to the obligations of the member governments of the Codex Alimentarius Commission but might not be proper in respect of an international organization. It was important to ensure consistency with the proposed amendment but the proposed assimilation clause required further study before a conclusion could be reached. The delegation of Norway also expressed its concern at the scope of application of the proposed assimilation clause.

42. The delegations of France and the United Kingdom supported the statement of the observer of the EEC, stating that the transfer of competence by member states of the European Community to the EEC meant that the EEC could make certain commitments on behalf of its member states and that certain instruments of the Council of the EEC had force of law in the territories of the member states. Under such conditions, these delegations said, the use of an assimilation clause into the Acceptance Procedures would be an automatic application of proposed amendments to the Elaboration Procedure.

43. The Committee agreed that the proposals of the Secretariat for amendment of the Codex Elaboration Procedures as reproduced in Appendix II to this report, should be transmitted to the Commission for adoption. The Committee further proposed that the Legal Advisors and the Secretariat of the EEC should further discuss the proposed "assimilation clause" to determine if amendments should be made to the General Principles of the Codex Alimentarius.

**PROCEDURE FOR THE ELABORATION OF CODEX REGIONAL STANDARDS:  
TERMS OF REFERENCE OF THE COORDINATING COMMITTEE FOR EUROPE**  
(Item 6)

44. The Committee had before it document CX/GP 89/7, a paper prepared by the Secretariat and comments thereon, contained in Conference Room Documents 1 and 2 from Finland, New Zealand, Thailand and the United States. In introducing the paper, the Secretariat drew attention to the views of the 35th Session of the Executive Committee on this matter (paragraph 10).

45. The Committee recalled that the Commission had decided to refer problems related to regional standards to the Executive Committee and the Committee on General Principles for consideration and advice recognizing that the resolution of these problems might require amendments of Codex Procedures. The Secretariat, drawing attention to possible alternate procedures which might be followed for the elaboration of standards for which no commodity committee was established, proposed that reconsideration might be given to the establishment of an "omnibus" Committee which would be responsible for such work.

46. The delegation of the Netherlands, Switzerland and the United Kingdom, supported the conclusion of the paper that the terms of reference of the coordinating committees should be brought into conformity with each other, and that the functions and responsibilities of the committees should be aligned. They did not, however, support the proposals put forward by the Secretariat for alternative procedures for the elaboration of standards although the delegation of the Netherlands stated there could be some merit in having a clearer description of the functions and responsibilities of an "Omnibus Committee". The delegations of Belgium, Norway and the United Kingdom spoke in favour of ad hoc arrangements other than the creation of an "omnibus" committee.

47. The Committee agreed to recommend to the Commission that the terms of reference of the regional coordinating committees be aligned. It also agreed, upon the proposal of the delegation of the Federal Republic of Germany, that the terms of reference should include a mandate "to promote the acceptance of Codex standards by countries of the region", as it appeared that there would be a better opportunity to reach agreement on acceptances in regional for a.

48. The Committee also agreed that the Secretariat should prepare a paper outlining the possibility of enlarging the territorial scope and application of the present regional standards adopted by the Commission.

49. The delegation of the United States stated that such a paper should envisage review of regional standards by the full membership of the Commission as was the case with other standards under elaboration as world-wide Codex standards.

50. The Committee was informed that 4 of the 6 countries not presently members of Codex coordinating committees had indicated their willingness to participate in a new Regional Coordinating Committee for the North American and South-West Pacific regions. The Committee recommended that the terms of reference of such a Committee or any future similar committees if established by the Commission, should be aligned in conformity with the terms of reference agreed upon above.

#### **PROCEDURES FOR ACCELERATED ELABORATION TO MEET EMERGENCIES** **(Item 7)**

51. The Committee had for its consideration, document CX/GP 89/8, prepared by the Secretariat in response to the recommendation of the Executive Committee at its 34<sup>th</sup> Session. The document acknowledged that the procedures of the Codex Alimentarius Commission were not well-suited to meet emergency situations and that the use of the Codex framework for such a purpose might not be appropriate in view of the Commission mandate to arrive at internationally recommended food standards based on consensus, which was in itself a time-consuming process.

52. Comments on the paper from New Zealand and the United States of America were also available to the Committee in Conference Room Documents 1 and 2.

53. Many delegations drew attention to the difficulty of defining unforeseen emergency situations and questioned whether it was advisable to set up any formal procedures. In the opinion of most delegations which spoke, it was believed to be essential that actions should be taken by FAO and WHO, either jointly or at least in close cooperation, to meet the immediate needs of member countries of the Commission and then enable action by the Commission at an early opportunity. Several delegations drew attention to the role which might be played by the Executive Committee, in ensuring that early action would be taken by the Commission, if the need arose.

54. Many delegations considered that the Secretariat's proposals were perhaps too detailed and this might not provide for the flexibility of response which would be required. The Committee confirmed that joint or coordinated expert advice would need to be made available in any future emergency situation, as this was seen to represent the essential starting point for any action to be taken by the Executive Committee or the Commission.

55. The Committee therefore agreed not to adopt the original proposals contained in CX/GP 89/8, but to recommend that the Commission adopt the following statement of policy for future guidance, should the need arise.

"Unforeseen emergency situations which may adversely affect health or international trade in foods are, by their very nature, unpredictable. However, FAO and WHO should respond with appropriate advice in the event of such emergencies. Both Organizations should act together to convene expert consultations, if necessary, to provide such advice and to disseminate quickly this information to member countries and interested international organizations.

At the request of any Member of the FAO/WHO Codex Alimentarius Commission for information or assistance concerning an emergency situation, the FAO/WHO Codex Secretariat will seek the opinion of Members of the Codex Executive Committee as to the appropriate action needed; this could include rapid dissemination of available information or calling an expert consultation, and initiating discussions within the Codex framework."

#### **PROCEDURE FOR ELABORATION OF CODEX STANDARDS FOR TROPICAL FRESH FRUITS AND VEGETABLES (Item 8)**

56. The Committee had before it document CX/GP 89/9 containing a summary of matters for endorsement arising from the Joint Session of the Codex Committee on Tropical Fresh Fruits and Vegetables. It also had for its consideration comments received from Finland, New Zealand, Thailand, United States of America, the Organization for Economic Cooperation and Development (OECD) and the United Nations Economic Commission for Europe (UNECE) as contained in Conference Room Documents 1 and 2.

#### **Format for Standards for Tropical Fresh Fruits and Vegetables**

57. The Committee noted the proposal of the Committee on Tropical Fresh Fruits and Vegetables (CCTFFV) as contained in Appendix III of ALINORM 89/35 and reproduced in Appendix 1 to CX/GP 89/9.

58. Several delegations noted that the format outlined by the CCTFFV covered many points contained in the UNECE layout for standards contained in the comments of the UNECE Secretariat, but that there were slight differences. It was also noted that whereas the CCTFFV had referred only to the general format, the UNECE layout

contained very precise details, including a statement as to the point of application of the standards.

59. The Committee noted the opinions of some delegations that the UNECE General Layout was not in conformity with the usual format of Codex standards, and that aspects such as contaminants, hygiene and labelling should be addressed in the Codex format. The delegation of the Netherlands, noted especially that the quality criteria which could be included would need to be extremely detailed, and that the Commission had previously discussed whether or not Codex standards should contain a great deal of detail.

60. Noting the opinion of other delegations that the format of Codex and UNECE standards for similar products should be the same and that the standards for tropical fresh fruits and vegetables were at a very early stage of elaboration, the Committee agreed to refer the question of format back to the Committee on Tropical Fresh Fruits and Vegetables, with a request that the Codex format should be respected in regard to those matters not dealing exclusively with commercial quality. The Committee considered that the detailed format of the UNECE should be used as a basis for the description of the section on Quality Characteristics already provided for in the Codex format.

#### Application and Acceptance of Standards for Tropical Fresh Fruits and Vegetables

61. The Committee discussed these two related sub-items together, taking into account the proposals of CCTFFV as described in paragraphs 19-34 of ALINORM 89/35 and summarized in Section D of CX/GP 89/9.

62. Many delegations drew attention to the need to apply the quality criteria in the Codex standards to perishable products at the point of export. In the opinion of these delegations the time between export and the point of import or sale to the consumer meant that the standards should be applied at the earlier stage in order for the product to arrive at its destination in good condition. Several delegations drew attention moreover to the procedures which had been developed by the UNECE which had been based on this concept.

63. Other delegations drew attention to the obligations of governments in accepting Codex standards, which included a commitment to allow the distribution of the commodity within its territorial jurisdiction. In this case these delegations were strongly of the opinion that the obligation for the application of the standard lay with the importing country.

64. The delegation of New Zealand informed the Committee that problems relating to the perishability of the commodities in transport had been resolved in some cases by the preparation of agreements with exporting governments relating to the conditions of packaging, transport, etc. and together with the delegations of Norway and the Netherlands suggested that a Code of Practice in this area might assist the Committee in its elaboration of standards. The delegation of Switzerland drew attention to the Control Certificate prepared by the UNECE which also covered these matters, and stated that these should form the basis for any such work.

65. The Committee agreed that commercial quality standards could not be accepted under the normal procedures of the Codex Alimentarius. There were elements of the standards which would apply equally at export and at import, and others which had to take into account a certain deterioration of quality during transport. It therefore agreed that governments in indicating the acceptance of a Codex standard for tropical fresh

fruits and vegetables should notify the Commission which provisions of the standard were being accepted in conformity with the General Principles of the Codex Alimentarius for application at the point of import, and which provisions would be accepted for application at the point of export.

66. The Committee decided that there would be no need for amendments to the Procedural Manual in this regard

#### Elaboration Procedures for Codex Standards for Tropical Fresh Fruits and Vegetables

67. The Committee noted that the CCTFFV had reviewed the existing Procedures for the Elaboration of World-Wide Codex Standards, and had noted that they currently included provisions concerning collaboration with other international organizations (e.g. UNECE, OECD). However, the CCTFFV had noted further that specific steps might be included as a footnote to these procedures to satisfy the Committee's terms of reference regarding collaboration with UNECE.

68. The Committee reviewed recommendations of the CCTFFV and proposed the following specific procedures regarding consultations with UNECE:

- (a) The UNECE Working Party on Perishable Produce:
  - (i) may recommend to the Commission that a world-wide Codex standard for tropical fresh fruits and vegetables should be elaborated; the Commission should have before it the advice of the CCTFFV in the matter.
  - (ii) may prepare "proposed draft standards" for tropical fresh fruits or vegetables at the request of the Commission for distribution by the Codex Secretariat at Step 3 of the Codex Procedure, and for further action by the CCTFFV.
  - (iii) may wish to consider "proposed draft standards" and "draft standards" for tropical fresh fruits and vegetables and transmit comments on them to CCTFFV at Step 3 and 6 of the Codex Procedure; and
  - (iv) may perform specific tasks in relation to the elaboration of standards for tropical fresh fruits and vegetables at the request of CCTFFV.
- (b) Codex "proposed draft standards" and "draft standards" for tropical fresh fruits and vegetables at Steps 3 and 6 of the Codex Procedure should be submitted to the UNECE Secretariat for obtaining comments.

69. The Committee confirmed that current Codex Procedures for the Elaboration of World-Wide Codex Standards did not need amendment, as they provided adequate procedures for collaboration with other interested international organizations. However, it was agreed that the provisions above relating to the role of UNECE in the elaboration of World-Wide Codex Standards be included as note to the Codex Elaboration Procedure.

#### Liaison with the Working Party on Standardization of Perishable Produce of the UNECE and with OECD

70. The Committee welcomed the proposals of the CCTFFV with regard to its collaboration with the OECD Scheme for the Application of International Standards for Fruits and Vegetables as outlined in paragraphs 38-45 of ALINORM 89/35. It also noted

the Resolution of the 43rd Session of the Economic Commission for Europe which requested the following of the CCTFFV:

- (a) that the list of fresh fruits and vegetables which will be standardized by the new Codex Committee be established in agreement with the other standardizing intergovernmental organizations;
- (b) that the intergovernmental organizations involved in standardization, work in close relation so as to maintain a high methodological homogeneity in the elaboration of standards;
- (c) that the standards for fruits and vegetables considered as "exclusively" tropical be established without mention, neither in the definition nor in any chapter of the standard, of this fact.

71. The Committee noted that compliance with request (a) above would be overly restrictive and limiting to future work, although it was agreed that a list could provide an initial starting guideline for CCTFFV which would not necessarily be closed to further amendment.

72. The Committee agreed to the suggestion concerning collaborative working arrangements in Point (b) above and noted the UNECE request outlined in point (c) above.

73. The Committee agreed that its opinion should be brought to the attention of the Commission.

#### **ENDORSEMENT OF MATTERS ARISING FROM THE THIRD SESSION OF THE CODEX COMMITTEE ON RESIDUES OF VETERINARY DRUGS IN FOODS (Item 9)**

74. The Committee had before it working paper CX/GP 89/10, which summarized matters of endorsement for the Committee arising from the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF). The Committee also noted written comments received from New Zealand, Thailand and the United States as contained in Conference Room Documents 1 and 2. Deliberations of the 34th Session of the Joint FAO/WHO Expert Committee on Food Additives (JECFA) concerning this matter was also brought to the attention of the Committee in Conference Room Document 1.

75. The Committee noted that the third session of the CCRVDF had decided to forward proposed procedures for the elaboration and acceptance of Codex maximum residue levels for veterinary drugs and proposed definitions for "maximum residue level" and "good practices in the use of veterinary drugs" for endorsement. The Committee decided to consider these items on a point by point basis.

#### **Proposed Procedure for the Elaboration of Codex Maximum Residue Levels for Veterinary Drugs (Appendix IV A, ALINORM 89/31A)**

76. The delegation of New Zealand questioned the use of the term Maximum Residue Level by the CCRVDF, as this was contrary to the term Maximum Residue Limit as used by the Codex Committee on Pesticide Residues (CCPR). The delegations of the Netherlands and the Federal Republic of Germany indicated that this would establish the use of the same acronym (i.e. MRL) for two different terms. The term "level" was also felt to be too flexible when speaking of maximum values. The delegations of France and Belgium also felt that the interpretation of the term "level" and "limit" into French presented difficulties, and noted that the word "limite" was used throughout the French text.

77. The Committee noted that this issue was discussed at length at the 17th Commission Session (para 174 of ALINORM 87/39) and at the second CCRVDF Session (para. 63 of ALINORM 89/31). The delegation of the United States recalled this discussion, and indicated that the CCRVDF felt that the use of the term "level" was more accurate when determining tolerance values for veterinary drugs.

78. The Committee decided to endorse the elaboration procedures with the understanding that use of the term "level" and "limit" would be discussed at the 18th Codex Commission Session (also see following discussion concerning definition of terms).

Proposed Procedure for the Elaboration of Codex Maximum Residue Levels for Veterinary Drugs - Introductory Section (Appendix IV B, ALINORM 89/31 A)

79. The delegation of the United Kingdom, while recalling the Committee's earlier discussions, felt that a statement concerning other international organizations to which competence has been transferred was a relevant addition to paragraph 1 of the proposed procedures,

80. The Committee decided to adopt the proposed procedures with a view towards their endorsement by the Commission with the understanding that any change made by the Commission to the procedures concerning acceptance by international organizations would be applied equally to the procedures for residues of veterinary drugs.

Proposed Procedure for the Acceptance of Recommended Codex Maximum Residue Levels for Veterinary Drugs in Foods (Appendix V, ALINORM 89/31)

81. The Committee agreed to endorse the proposed procedures with a view towards their endorsement by the Commission, with the understanding that any action taken by the Commission concerning the examination of types of acceptance of maximum limits for pesticide residues (Agenda Item 10) would be applied automatically to the acceptance procedures for residues of veterinary drugs.

Proposed Definition for Maximum Residue Level (MRL) (Appendix III, ALINORM 89/31 A)

82. The Committee noted the decision of the 34th Session of JECFA to add the phrase "and estimated food intakes" to the end of paragraph 2. The delegation of Norway suggested that this revision be considered by CCRVDF, in order to obtain the proper technical advice.

83. The delegation of the Netherlands indicated that the definition should conform to the Procedural Manual layout for pesticide residue definitions, and that it should also take toxicological hazards and good veterinary practice into account. The delegation also suggested the establishment of definitions for "veterinary drug" and residues of veterinary drugs".

84. The Secretariat indicated that all of these points had been considered by the CCRVDF. The CCRVDF definitions differed from the pesticide residue definitions because different approaches were used by the respective committees, when establishing such values. The Secretariat noted that the MRL definition was established by the Committee after careful deliberations based on sound technical principles. The Committee also noted that the CCPR was currently revising its own MRL definition. The definition for "veterinary drug" and "residues of veterinary drugs" had been adopted at the 17th Commission Session for inclusion into the Procedural Manual.

85. In view of several questions remaining concerning this definition, the Committee decided to refer this matter to the Commission for further consideration.

Proposed Definition for Good Practices in the Use of Veterinary Drugs (Appendix III, ALINORM 89/31A)

86. The delegation of Austria questioned the use of the phrase "authorized usage approved by national authorities" in this definition, as it gave the impression that national authorities could approve any veterinary drug usage. The Committee was informed that animal disease situations varied considerably from country to country, and that national authorities were in the best position to evaluate these differences. The delegation of the Federal Republic of Germany also noted the General Principles Committee's previous discussions concerning good agricultural practice with regard to safety (paras. 32-36, ALINORM 82/33), and indicated that the definition for GPVD should include safety aspects. The delegation of the Netherlands also suggested the combination of both definitions for MRL and GPVD as a viable alternative.

87. The Committee decided to refer the GPVD definition to the Commission for its consideration, based on the above discussions.

**EXAMINATION OF TYPES OF ACCEPTANCE OF MAXIMUM LIMITS FOR PESTICIDE RESIDUES (Item 10)**

88. The Committee had for its consideration document CX/GP 89/11 prepared by the Secretariat. The Committee recalled that it had, at its 8th Session, considered a detailed review of acceptances and other responses, and of difficulties encountered by governments when considering acceptances of Codex standards. The review also took into consideration the acceptance of maximum limits for pesticide residues. The Committee had concluded that there were no grounds for changing acceptance procedures and agreed that the procedures should not be amended (ALINORM 87/33, paras. 7-39). The Seventeenth Session of the Commission had noted the Committee's views (ALINORM 87/39, para. 143).

89. The Codex Committee on Pesticide Residues, at its 20th Session 1988, considered a report on acceptances of Codex maximum residue limits (MRL's). It was informed that the notification of free entry to be granted to foods complying with the MRL's was being increasingly favoured by countries which responded. The Committee stated that in many cases "free entry of distribution" could be considered as a form of Limited Acceptance, especially where the importing country had more stringent requirements or where no national level existed. This was seen to be a substantially positive response and therefore should not be indicated as non-acceptance of the MRL's as is the case presently. The Committee agreed that a re-examination of the forms of acceptance would be timely (ALINORM 89/24, paras, 27-29). The paper before the Committee examined the different forms of acceptance, and alternative approaches for strengthening the acceptance procedure by reducing the number of forms of acceptance to include only those which affected trade,

90. The Committee welcomed the proposals contained in the document, but agreed that the use of the term "free distribution" should be used in place of "free entry" as it was more in conformity with Codex practice. It also agreed with the opinions of several delegations and the CCPR that the declarations of non-acceptance contained valuable information for the use of governments and the CCPR.

91. The Committee therefore recommended that the forms of acceptance for pesticide residues be limited to the following:

Full acceptance as currently defined; and

Free distribution, meaning that the country concerned undertakes that products conforming to the Codex MRL's may be distributed freely within its territorial jurisdiction insofar as matters covered by the MRL's are concerned.

92. The Committee further recommended that the use of Limited and Target acceptance in respect of Codex MRL's be discontinued, and that the Procedural Manual should be amended accordingly.

93. The delegation of Brazil stated that it preferred the use of the Limited Acceptance procedure, and expressed its disappointment at the deletion of this procedure from the forms of acceptance.

94. The Committee decided that its recommendations concerning the acceptance of pesticide residues were equally valid for the acceptance of residues of veterinary drugs in foods.

### **SUMMARY OF POLICY DECISIONS BY THE COMMISSION (Item 11)**

95. The Committee had before it working paper CX/GP 89/12, as prepared by the Government of Canada. The Committee also noted comments received from the governments of Thailand and the United States concerning this issue as contained in Conference Room Document 2.

96. The delegation of the Federal Republic of Germany noted that the document was in need of revision as several decisions required updating and suggested to mark the date on each page of the document to establish the status of all decisions taken up to that date. The delegation of the United Kingdom emphasized that the summary was a first draft. The Delegation suggested that the document be strengthened by including a commodity index concerning "vertical" issues and that the Secretariats from the host countries of Codex Committees should share the task of checking the document for accuracy, and the Codex Secretariat in relation to the Executive Committee and the Codex Alimentarius Commission.

97. The Committee expressed its warm appreciation to the Government of Canada for its efforts and noted that the document had already proved to be a useful contribution to the work of the Commission. The Committee agreed that host country secretariats and the Codex Secretariat in relation to the Commission and the Executive Committee, should review the document as suggested with a view towards its future adoption.

### **STRENGTHENING THE ACTIVITIES OF THE CODEX ALIMENTARIUS COMMISSION TO COORDINATE WORK ON FOOD STANDARDS UNDERTAKEN BY OTHER INTERNATIONAL ORGANIZATIONS (Item 12)**

98. The Secretariat introduced document CX/GP 89/13 on the above subject. The document analysed various aspects of the Commission's mandate to promote coordination of all food standards work undertaken by governmental and non-governmental organizations.

99. In discussing the paper, the delegations of Sweden and Switzerland drew attention to the important work of the Council of Europe in relation to the flavouring substances and materials in contact with food. In response to a question put by the delegation of Norway, the observer of the EEC provided information on the role played by the European Committee for Standardization (CEN) in providing voluntary standards for use by the food industry; the use of these standards should be communicated to the Commission of the European Community instead.

100. The Committee stressed the importance of global standards for use in food trade in preference to regional ones and noted the opinion of the Executive Committee in this regard. The delegation of France, however, stated that in certain cases where for example there was a diversity of national standards in a region, the development of regional standards could be seen as a positive step in removing barriers to trade. This view was supported by the observer from the European Food Law Association, who pointed out however, that such developments should be seen as transitory, and that the final goal should be the world-wide removal of technical barriers to trade.

101. The Chief of the Joint FAO/WHO Food Standards Programme drew attention to the dangers inherent in regional standardization, especially in countries where industries were "protected" by the use of regional standards. Very often these industries found themselves unable to enter into wider trade outside their particular region.

102. In view of the above discussion, the Committee agreed to:

- recommend that the Commission encourage regional standardizing bodies which find it necessary to work in the field of foods to adopt international Codex standards and to modify existing standards to bring them into conformity with Codex standards;
- recommend that the Commission authorize the Secretariat to enter into agreements with such standardizing bodies so as to allow them to publish Codex standards as joint standards, provided that the texts are identical;
- recommend that the Commission request all international and regional standardizing bodies to notify the Secretariat of all activities related to the elaboration of food standards, and that this information should be summarized and transmitted to Codex Contact Points on a regular basis.

### **OTHER BUSINESS (Item 13)**

103. The Committee noted the amendments proposed by the Codex Committee on Food Labelling in relation to changes to the sections in the Procedural Manual dealing with the Relations between Codex Commodity Committees and General Subject Committees (Guidelines on Labelling Provisions in Codex Standards) and the format of Codex Standards (see para 7-8 above).

104. The delegation of Switzerland noted that in future editions of the Procedural Manual, reference should be made in the introductory part of the section on Relations between Committees to the work of the Codex Committee on Nutrition and Foods for Special Dietary Uses in regard to endorsement.

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PROPOSED AMENDMENTS TO THE PROCEDURE FOR THE ELABORATION OF  
CODEX STANDARDS, CODES OF PRACTICE AND CODEX MAXIMUM LIMITS FOR  
PESTICIDE RESIDUES

The two last sentences in paragraph 1 of the Introduction to the Procedure for the Elaboration of Codex Standards and Codes of Practice, Codex Maximum Limits for Pesticide Residues to read as follows:

"The Codex Standard is published and is sent for acceptance to governments. It is also sent to international organizations to which competence in the matter has been transferred by their member states. Details of acceptances are published periodically by the Commission's Secretariat".

The second sentence of the first paragraph of "Subsequent Procedure Concerning Publication and Acceptance of Codex Standards" to read as follows:

"Members of the Commission and international organizations to which competence in the matter has been transferred by their member states notify the Secretariat of the acceptance of the Codex standards in accordance with the acceptance procedure laid down in paragraph 4, paragraph 5, or in paragraph 6 of the General Principles of the Codex Alimentarius, whichever is appropriate."

The second paragraph of "Subsequent Procedure Concerning Publication and Acceptance of Codex Standards" to read as follows:

"The Secretariat publishes periodically details of notifications received from governments and from international organizations to which competence in the matter has been transferred by their member states with respect to the acceptance or otherwise of Codex standards and in addition to this information on appendix for each Codex standard:

- a) listing the countries in which products conforming with such standards may be freely distributed, and
- b) where applicable, stating in detail all specified deviations which may have been declared (by any accepting country) in respect to the acceptance."

ACCEPTANCE PROCEDURE FOR CODEX STANDARDS

GUIDELINES

The importance of a response to every notification

1. The Codex Alimentarius is the record of Codex Standards and of acceptances or other notifications by Member Countries. It is revised regularly to take account of the issue of new or amended standards and the receipt of notifications from governments. It is important that governments respond to every issue of new or amended standards. Governments should aim at giving formal acceptance to the standards. If acceptance or free circulation cannot be given unconditionally, the deviations or conditions, and the reasons, can be included in the response. Early and regular responses will ensure that the Codex Alimentarius can be kept up-to-date so as to serve as an indispensable reference for governments and international traders.

2. Governments should ensure that the information in the Codex Alimentarius reflects the up-to-date position. When changing national laws or practices the need for a notification to the Codex Secretariat should always be kept in mind.

3. The Codex procedure for elaboration of standards enables governments to participate at all stages. Governments should be able to make an early response to the issue of a Codex standard and should do their utmost to be ready to do so.

The Codex Alimentarius - not a substitute for, or alternative to, referring to national legislation

4. Every country's laws and administrative procedures contain provisions which it is essential to understand and comply with. It is usually the practice to take steps to obtain copies of relevant legislation and/or

to obtain professional advice about compliance. The Codex Alimentarius is a comparative record of the substantive similarities and differences between Codex Standards and corresponding national legislation. The Codex Standard will not normally deal with general matters of human, plant or animal health or with trade marks. The language which is required on labels will be a matter for national legislation and so will import licences and other administrative procedures.

5. The responses by governments should show clearly which provisions of the Codex Standard are identical to, similar to or different from the related national requirements. General statements that national laws must be complied with should be avoided or accompanied by details of national provisions which require attention. Judgement will sometimes be required where the national law is in a different form or where it has different provisions.

Obligations under the Acceptance Procedure

6. The obligations which a country undertakes under the acceptance procedure are included in paragraph 4 of the General Principles, Paragraph 4A (i)(a) provides for free distribution of conforming products, 4A (i)(b) with the need to ensure that products which do not conform may not be distributed "under the name and description laid down". Paragraph 4A (i)(c) is a general requirement not to hinder the distribution of sound products, except for matters relating to human, plant or animal health, not specifically

dealt with in the standard. Similar provisions are included in Acceptance with Specified Deviations.

7. The essential difference between acceptances and notifications of free distribution is that a country which accepts, undertakes to enforce the Codex standard and to accept all the obligations set out in the General Principles subject to any specified deviations.

8. The Codex Committee on General Principles (CCGP) and the Commission (CAC) have reviewed the acceptance procedure and notifications by governments on a number of occasions. While recognizing that difficulties can arise from time to time in reconciling the obligations of the acceptance procedure with the laws and administrative procedures of a Member Country, the CCGP and the CAC have determined that the obligations are essential to the work and status of the CAC and that they should not be weakened in any way. The purpose of these guidelines therefore is to assist governments when they are considering how, in the light of the objectives of the acceptance procedure, to respond to Codex Standards.

#### The return of the response

9. The principal decision which is required is whether to notify an acceptance according to one of the methods prescribed, a non-acceptance or a declaration of free circulation as provided for in 4B. Free circulation does not carry with it the obligation to prevent nonconforming products from being circulated, and it may be useful in cases where there is no corresponding national standard and no intention to introduce one. If time will be necessary, for example, to change laws or practices, in order to give an acceptance, it would be helpful to send an interim response of free circulation or target acceptance.

#### The need for an informed, responsible judgement when comparing the Codex Standard with national laws

10. There will be some occasions when the detail in the Codex Standard is identical with national laws. Difficulties will arise however when national laws are in a different form, contain different figures or no figures at all, or in cases where there may be no standard in the country which corresponds in substance to the Codex Standard. The authority responsible for notifying the response to the CAC is urged to do its best to overcome any such difficulties by the exercise of its best endeavours and to respond, after such consultations as may be appropriate with the national organizations. The grounds on which the judgement has been based can be made clear in the notification. It may well be that they will not be such as to justify an acceptance, because of the obligations to stop the distribution of non-conforming products, but a statement of free circulation should be possible on the basis of the facts and practices of each case. If there was a, court decision or change in the law or practice subsequently, an amending response should be made.

#### Presumptive standards

11. A presumptive standard is one which is assumed to be the standard in the absence of any other. (A presumption in law is the assumption of the truth of anything until the contrary is proved). Some countries have said that a Codex MRL is the presumptive limit for a pesticide residue. Countries may be able and willing to regard a Codex Standard as the presumptive standard in cases where there is no corresponding standard, code of practice or other accepted expression of the "nature, substance or quality" of the food. A country need not apply the presumption to all the provisions of the

standard if the details of its additives, contaminants, hygiene or labelling rules are different from those in the standard. In such a case the provisions in the Codex Standard defining the description, essential composition and quality factors relating to the specified name and description could still be the presumptive standard for those matters.

12. The justification for regarding the Codex Standard as a presumptive standard is the fact that it is the minimum standard for a food elaborated in the CAC "so as to ensure a sound, wholesome product free from adulteration, correctly labelled and presented". (General Principles, Paragraph 3). The word minimum does not have any pejorative connotations: it simply means the level of quality and soundness of a product judged by consensus to be appropriate for trade internationally and nationally.

13. Whether a presumptive standard would merit an acceptance would depend on whether the country concerned could say that non-conforming products could not be distributed under the same name and description laid down in the standard. However it would enable a declaration of free circulation to be made and countries are asked to give the idea serious consideration.

#### Format and Content of Codex Standards

14. Scope. This section, together with the name of the standard and the name and description laid down in the labelling section, should be examined in order to assess whether the obligations of the acceptance procedure can properly be accepted.

15. Description, essential composition and quality factors. These sections will define the minimum standard for the food. They will be the most difficult to address unless by chance the details are virtually identical (i.e. ignoring significant matters of editorial expression or format). However, a country which has taken part in the elaboration of the standard either by attending the meetings or by sending comments under the Step procedure has, no doubt, consulted national organizations on the extent to which the draft provisions in the standard would be acceptable nationally. This factual information needs to be turned into a formal response when the standard is sent out for acceptance. Countries are asked to do their best to exercise an informal judgement on lines discussed in Paragraph 7 above. Some of the quality criteria e.g. allowances for defects may represent good manufacturing practice or be left to trade contracts. This will have to be taken into account. A free circulation response ought to be possible in most cases.

#### Food Additives

16. The food additives included in the standard have been assessed and cleared by JECFA. The Commodity Committee and the CCFA have assessed technological need and safety-in-use. If national laws are different, all the detailed differences should be reported. It should be borne in mind, however, that the aim of international food standardization work is to harmonize policies and attitudes as much as possible. Therefore every effort should be made to keep deviations to the minimum.

#### Contaminants

17. If national limits apply they should be quoted if not the same as those laid down in the Codex Standard. Where general laws about safety, health or nature of the food apply, the limits quoted in the standard could properly be regarded as representing those which are unavoidable in practice and within safety limits.

#### Hygiene and Weights and Measures

18. If national requirements are different they should be reported.

## Labelling

19. The revised General Standard for the Labelling of Prepackaged Foods represents the international consensus on information to be included on the labels of all foods.

20. Governments are exhorted to use the revised General Standard as a basis for their national legislation and to keep differences to an absolute minimum especially those of detail or minutiae. Governments should observe the footnote to the Scope section and should ensure that all compulsory provisions relating to presentation of information which are additional to, and different from, those in the standard should be notified. Any other compulsory provisions in national legislation should also be notified if they are not provided for in the Codex standard. The labelling provisions in Codex standards will be revised as soon as possible and will include sections of the revised General Standard by reference. When accepting a revised Codex commodity standard, a country which has already accepted and responded to the general labelling standard can then refer to the terms of that acceptance in any subsequent responses. As much specific information as is relevant and helpful should be given. In particular, this should include the name and description relating to the food, the interpretation of any special requirements relating to the law or custom of the country, any additional details about presentation of the mandatory information and detailed differences if any in the labelling requirements e.g. in relation to class names, declaration of added water, declaration of origin. It will be assumed that the language (s) in which the particulars should be given will be as indicated by national legislation or custom.

## Methods of Analysis and Sampling

21. The obligations which a country assumes in accepting the following Codex Defining Methods of Analysis included in Codex standards are as follows <sup>1</sup>:

<sup>1</sup> The Committee on General Principles, when elaborating these Guidelines, noted that the Classification of Methods was under review by the Codex Committee on Methods of Analysis and Sampling and that the application of part (b) particularly could be unnecessarily restrictive.

- (a) Codex Defining Methods of Analysis (Type I) are subject to acceptance by governments just as are the provisions which they define and which form part of Codex standards.

"Full acceptance" of a Codex Defining Method means the acceptance that the value provided for in a Codex standard is defined by means of the Codex method. In determining compliance with the value in the Codex standard, governments undertake to use the Codex Defining Method, especially in cases of disputes involving the results of analysis.

"Non-acceptance" of Codex Defining Method or acceptance of Codex standards with substantive deviations in the Codex Defining Methods means acceptance of the Codex standard with specified deviation.

- (b) The "acceptance" of Codex standards containing Codex Reference Methods of Analysis (Type II) means the recognition that Codex Reference Methods are methods the reliability of which has been demonstrated on the basis of internationally acceptable criteria. They are, therefore, obligatory for use, i.e. subject to acceptance by governments, in disputes involving the results of analysis. "Non-acceptance" of the Codex Reference Method or acceptance of Codex standards with substantive deviations in the Codex Reference Methods for use in

disputes involving methods of analysis, should be taken to mean acceptance of the Codex standard with specified deviation.

- (c) The "acceptance" of Codex standards containing Codex Alternative Approved Methods of Analysis (Type III) means the recognition that Codex Alternative Approved Methods are methods the reliability of which has been demonstrated in terms of internationally acceptable criteria. They are recommended for use in food control, inspection or for regulatory purposes.

"Non acceptance" of a Codex Alternative Approved Method does not constitute a deviation from the Codex standard.

- (d) Since the reliability of the Tentative Methods (Type IV) has not yet been endorsed by the Codex Committee on Methods of Analysis and Sampling on the basis of the internationally accepted criteria, it follows that they cannot be regarded as final Codex methods. Type IV methods may, eventually become Type I, II or III methods with the resultant implications regarding the acceptance of Codex methods. Type IV methods are, therefore, not recommended as Codex methods until their reliability has been recognized by the CCMAS. They may be included in draft Codex standards or in Codex standards provided their non-approved status is clearly indicated.

### Summary

22. Governments are urged to respond to every issue of Codex standards. The inclusion of responses in the Codex Alimentarius will enable the CAC and member governments to address the question of closer approximation of international and national requirements. Governments are urged to take the Codex standard fully into consideration when changing their national laws. The Codex Alimentarius will always be an invaluable reference for governments and for international traders although national legislation must always be consulted and complied with.

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APPENDIX IV

## **COMMUNICATION FROM THE GATT REPRESENTATIVE** **SANITARY AND PHYTOSANITARY REGULATIONS**

Ministers endorse harmonization of national regulations as a long-term goal and a work programme embodying the following objectives:

- (1) develop harmonization of sanitary and phytosanitary regulations and measures, on the basis of appropriate standards established by relevant international organizations including the Codex Alimentarius Commission, the International Office of Epizootics and the International Plant Protection Convention;
- (2) strengthen Article XX so that measures taken to protect human, animal or plant life or health are consistent with sound scientific evidence and use suitable principles of equivalency;
- (3) review existing notification and counter-notification procedures to ensure transparency and the existence of an effective notification process for national regulations and bilateral agreements;

- (4) develop a consultative process which ensures transparency and allows opportunity for the bilateral resolution of disputes;
- (5) improve the effectiveness of the multilateral dispute settlement process within the GATT in order to provide the necessary input of scientific expertise and judgement, relying on relevant international organizations;
- (6) assess the possible effects on developing countries of the GATT rules and disciplines for sanitary and phytosanitary measure's, and evaluate the need for technical assistance;
- (7) examine the possibilities for implementation of the above programme in the context of short-term elements.

**RECOMMENDATIONS OF THE EXECUTIVE COMMITTEE**  
**ON THE RELATIONSHIP BETWEEN THE CODEX ALIMENTARIUS COMMISSION**  
**AND GATT**

Note: The Committee on General Principles recommended the adoption of Recommendations 1 to 3, and accepted Recommendation 4 in principle, pending a final decision by the 36th Session of the Executive Committee.

- 1) The Commission should continue to ensure that steps are taken to avoid duplication of effort and to harmonize possible areas of conflict between the CAC and the GATT Committee on Technical Barriers to Trade. A joint communication between the CAC and GATT Secretariats re-emphasizing the work of the respective parties would be one way of re-establishing closer collaboration.
- 2) The CAC Secretariat should make every effort, in collaboration with the GATT Secretariat, to revive the cooperation arrangements which have been developed since 1970 between the two Secretariats with a view, *inter alia*, to ensuring the participation of the CAC Secretariat at sessions of the GATT Committee on Technical Barriers to Trade and of the GATT Secretariat at sessions of CAC when matters involving possible duplication of effort or other matters of mutual concern are under consideration.
- 3) The existing notification mechanism for the exchange of information should be examined for possible revision and for use by the Codex Alimentarius Commission.
- 4) The Commission may wish to consider incorporating a reference to the General Agreement on Tariffs and Trade (GATT Committee on Technical Barriers to Trade) into the Codex Alimentarius Procedural Manual. As mentioned previously, Section 13.3 of the Agreement outlines the importance of avoiding unnecessary duplication of work between the GATT Committee on Technical barriers to Trade and that of governments in other technical bodies, and specifically recognizes the Joint FAO/WHO Codex Alimentarius Commission in efforts to minimize such duplication. An analogous reference to the General Agreement on Tariffs and Trade might be inserted in the Codex Alimentarius Procedural Manual, under the Introductory Elaboration Procedure Section.