



Agenda Item 4a

CX/MAS 13/34/4

JOINT FAO/WHO FOOD STANDARDS PROGRAMME
CODEX COMMITTEE ON METHODS OF ANALYSIS AND SAMPLING

Thirty-fourth Session
Budapest, Hungary, 4 - 8 March 2013

PROPOSED DRAFT PRINCIPLES FOR THE USE OF SAMPLING AND TESTING IN
INTERNATIONAL FOOD TRADE

Draft Section on Principles

Comments of Argentina, Australia, Brazil, Egypt, Japan, Philippines at Step 6

ARGENTINA

Argentina has no technical comments in this document. However, some layout errors have been noted in SECTION 2 - SCOPE, and some translation issues have been identified in SECTION 4 - PRINCIPLES of the Spanish version of the document, which appear below:

• SECTION 2 - SCOPE

In paragraph 8 bullet points 9, 10 and 11 should be deleted.

• SECTION 4 - PRINCIPLES

The tense used in the original text in English has been translated inappropriately, which affects the meaning of the text.

Some examples include:

1) **Version CODEX ingles:**

Principle 5: The sampling and testing procedures selected **should be** scientifically based and appropriate to the commodity and lot or consignment to be sampled and tested, fit for intended purposes and applied consistently.

Versión CODEX español:

Los procedimientos de muestreo y análisis seleccionados **deberían tener** base científica y resultar apropiados para el producto y lote o envío que se someta a muestreo y análisis, deberían ser idóneos para los fines previstos y aplicarse en forma sistemática.

Traducción correcta:

Los procedimientos de muestreo y ensayo seleccionados **deben tener** una base científica apropiadas para el producto y el lote o de la remesa que se toman muestras y pruebas, aptos para los fines previstos y aplicados consistentemente.

2) **Version CODEX ingles:**

Principle 7: Taking account of analytical measurement uncertainty and its implications The selection of the product assessment procedure **should take** into account analytical measurement uncertainty.

Versión CODEX español:

Principio 7: Consideración de la incertidumbre de la medición analítica y sus implicaciones en la selección del procedimiento de evaluación del producto se **debería tener** en cuenta la incertidumbre de la medición analítica.

Traducción correcta:

Principio 7: Teniendo en cuenta la incertidumbre de medición analítica y sus implicaciones la selección del procedimiento de evaluación de producto **debe tener** en cuenta la incertidumbre de medición analítica.

3)Version CODEX ingles:

Principle 8: Product variation

The selection of sampling and testing procedures **should take** into account the potential variations within a lot or consignment.

Versión CODEX español:

Principio 8: Variación del producto

En la selección de procedimientos de muestreo y análisis se **deberían tener** en cuenta las posibles variaciones dentro de un lote o envío.

Traducción correcta:

Principio 8: Variación del producto.

La selección de los procedimientos de muestreo y análisis **deberá tener** en cuenta las posibles variaciones de un lote o de la remesa.

Por lo antes expuesto se solicita la revisión de la traducción de la SECCION 4 del documento en español rectificando el tiempo de verbo utilizado.

AUSTRALIA**General comments:**

Australia considers that the principles for the application of sampling and testing activities in international food trade should be consistent with and read in conjunction with the principles and guidelines that have been developed by the Codex Committee on Food Import and Export Inspection and Certification Systems. This existing guidance has been developed in the context of whole food systems and therefore these principles being developed by CCMAS may needs to be consistent and/or supplement this existing Codex guidance. Australia also does not support the use of the terms ‘appropriate levels of consumers risk and producers risk’, as we believe it’s inconsistent with principles in international trade.

The WTO Agreement on Sanitary and Phytosanitary Measures (SPS) Agreement refers to measures for the protection of human, animal or plant life or health, and measures achieving the importing members appropriate level of sanitary or phytosanitary protection. The WTO Technical Barriers to Trade (TBT) Agreement refers to technical regulations not being more trade restrictive than necessary to fulfil a legitimate objective. It is also our view that the use of these terms are inconsistent with the Codex mandate of protecting the health of consumers and ensuring fair practices in the food trade and will only serve to confuse the reader and could contribute to inconsistent application of an importing country’s requirements.

Specific comments are as follows:**SECTION 1 - INTRODUCTION**

1. Sampling and testing procedures ~~are~~ **can be**, utilized to determine if foods in trade are compliant with particular specifications. ~~These procedures establish the level of protection afforded to exporters and producers, and importers and consumers. The procedures used should be such as to ensure that Consumers’ Risk and Producers’ Risk are both considered~~ **proportionate to the risk that is being managed**. The absence of defined, scientifically valid procedures could lead to *ad hoc* practices being used, resulting in inconsistent decisions and an increased occurrence of disputes.

Rationale for above amended text:

First Sentence - Sampling and testing procedures are not the only measures to determine whether an imported food meets the importing country requirements, therefore change ‘are’ to ‘can be’.

Deletion of the second sentence is suggested as this language confuses the reader as to the determination and use of appropriate level of protection (ALOP) in international trade. The Codex definition of ALOP (see CCFICS CAC/GL 47-2003) “is the level of protection deemed appropriate by the country establishing the

sanitary measure to protect human life or health within its territory". The proposed text is also inconsistent with the WTO SPS Agreement in Article 5. Third sentence – when establishing measures for imported food regardless of whether they are for sampling and testing or inspection the measures or in this case the procedures should be proportionate to the risk.

3. Sampling and testing procedures in international food trade are often used for the purpose of risk management related to safety. For this purpose, sampling and testing procedures should be established as an integral part of a national food control system¹ to the extent possible.

Rationale for above amended text:

Include a footnote reference to the document currently being developed by CCFICS.

4. ~~Risk management decisions should be commensurate to the assessed risk, and should take into account the economic consequences and feasibility of risk management options. Risks due to conditions during storage and transport should be considered by all business operators in the food distribution chain. In order to achieve this there should be an understanding of the impacts of sampling and testing options on all affected parties. Risk management itself should be a continuing process that takes into account all new information, including scientific information, in the evaluation and review of risk management decisions based on sampling and testing.~~ **The nature and frequency of inspection, sampling and testing of imported foods should be based on the risk to human health and safety presented by the product, its origin and the history of conformance to requirements and other relevant information.**

Rationale for above amended text:

Australia suggests deleting the above strikethrough paragraph and replacing it with a more general one as provided, that highlights the need for measures to be based on risk assessment and is consistent with existing Codex guidance on Food Import Control Systems (CAC/GL47-2003 paragraph 22).

6. ~~This document does not affect existing Codex limits or the current way of setting those limits. These responsibilities are set out in committees' terms of reference.~~

Rationale for above amended text:

Australia believes this paragraph was originally provided as guidance for the documents development and thus not sure what this paragraph adds – and reference to the Committee's Terms of Reference are not appropriate in a Codex text.

SECTION 2 – SCOPE

8. These principles do not:

- a) ~~address other uses of sampling and testing;~~
- b) ~~address other means of establishing that foods in trade meet specifications;~~
- e) ~~give guidance on choosing appropriate levels of Consumers' Risk and Producers' Risk.~~

Rationale for above amended text:

Australia believes this paragraph doesn't help the reader in determining the scope of the principles – we also do not support the use of the term 'appropriate levels of consumers risk and producers risk', as we believe it's inconsistent with principles in international trade as mentioned in our general comments above.

Consumers' Risk and Producers' Risk^{1,2}

Note 1

~~The definitions of Consumers' Risk and Producers' Risk refer to the probabilities of wrongly accepting or wrongly rejecting a lot or consignment, respectively.~~

Note 2

¹ As defined in the Codex Principles and Guidelines for National Food Control Systems currently being developed by the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS)

The word “probability” should be interpreted as the proportion or percentage of times that lots or consignments identical to the given lot or consignment would be incorrectly decided by the specified sampling and testing procedures.

Rationale for above amended text:

Australia does not support the use of the term ‘appropriate levels of consumers risk and producers risk’, as we believe it’s inconsistent with existing principles in international trade.

SECTION 4 - PRINCIPLES

Principle 4: Consumers’ Risk and Producers’ Risk

~~Whenever food is sampled and tested, the probability of wrongly accepting or wrongly rejecting a lot or consignment affects both exporters and importers and can never be entirely eliminated. The Consumers’ Risk and Producers’ Risk should be evaluated and controlled, preferably using methodology described in internationally recognized standards.~~

Rationale for above amended text:

This principle should be about transparency which is already covered in Principle 2. The decision to accept or reject a consignment of food should be based on existing Codex guidance in CAC/GL 47-2003 paragraph 21. “When the results of border/point of control checks indicate failure of a shipment to meet the requirements of the importing country, competent authorities of the importing countries should consider action as described in the Codex Guidelines for the Exchange of Information Between Countries on Rejection of Imported Food (CAC/GL 25-1997) or in the Codex Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations (CAC/GL 19-1995)”.

In Australia’s view if Principle 5 is complied with and countries utilize the existing Codex guidance on rejections for food then Principle 4 unnecessary and can be deleted.

Principle 5: Selecting appropriate sampling and testing procedures

The sampling and testing procedures selected should be scientifically based and appropriate to the commodity and lot or consignment to be sampled and tested, fit for intended purposes and applied consistently.

BRAZIL

SECTION 1 – INTRODUCTION and SECTION 2 - SCOPE

Brazil suggests delete the word “particular” before “specifications”, in order to harmonize with the principles 1,2 and 3 where the “specifications” are mentioned, unless there is a special reason to keep it.

SECTION 3 - DEFINITIONS

The Brazil understands that preferably should be used definitions already established in the Codex documents, such as CAC / GL 50, CAC / GL 72 and CAC / GL 54. However, when the definitions on these documents are outdated, the committee should asses the possibility to adopt the updated one.

SECTION 4 - PRINCIPLES

We suggest merging principles 5, 6, 7 and 8, because they deal with the same theme "appropriate procedures for sampling and testing". We believe that is import to include the Producers’ Risk on the third bullet point (former principle 6), because, for example, a screening methodology may be unspecific increasing false positive results, consequently increasing the producers’ risk.

The new principle 5, including the former principles, is:

5. Adequacy

The sampling and testing procedures selected should:

- *be scientifically based;*
- *be appropriate to the commodity and lot or consignment to be sampled and tested, fit for intended purposes and applied consistently;*

- *take into account practical matters such as cost and timeliness of the assessment and access to lots or consignments, provided that Consumers' Risk and Producers' Risk are not compromised*
- *take into account analytical measurement uncertainty and its implications*
- *take into account the potential variations within a lot or consignment*

SECTION 5 - REFERENCES

We suggest include the following references:

VIM, International Vocabulary of Metrology – Basic and general concepts and associated terms, 3rd edition, JCGM 200: 2008, with minor corrections-2012.)

ISO 3534-2:2006, ISO 3534-1:2006

EGYPT

We would like to inform you that Egypt agrees to develop the discussion paper.

JAPAN

Japan is pleased to provide following comments in response to CL 2012/33-MAS.

Principle 1 and 2

Japan proposes inserting “sampling plan” before “sampling and testing procedure” in Principle 1 and Principle 2. According to the definition, “sampling plan” is a different concept from sampling procedure or testing procedure. Agreement related to “sampling plan” is indispensable before reaching agreement on the sampling and testing procedures.

Proposed amendment in the Principle 1 and 2 are as follows:

Principle 1: Agreements before initiating trade

Before starting trading activities, the parties concerned should reach agreement related to **the sampling plan**, the sampling and testing procedures that will be applied to determine whether the food in trade meets the specifications of the importing country and also on **the sampling plan**, the sampling and testing procedures to be followed in the case of a dispute.

Principle 2: Transparency

The selection of **sampling plan**, sampling and testing procedures and the process for comparing test results to specifications should be documented, communicated and agreed upon by all parties. All relevant information should be shared between governments using mutually agreed upon format and language(s).

PHILIPPINES

The Philippines supports the adoption of the “ Proposed Draft Principles for the Use of Sampling and Testing in International Food Trade “ (section on Principles) at Step 6.