

NOTE ON DEVELOPING COUNTRY PARTICIPATION IN CODEX BODIES

Submission by the FAO/WHO Codex Alimentarius Commission

I. BACKGROUND

1. The Final Act of the Uruguay Round of Multilateral Trade Negotiations includes two Agreements designed to limit the impact of non-tariff barriers to trade and to subject such barriers to the disciplines of the GATT and the WTO. These are the broad WTO Agreement on Technical Barriers to Trade (TBT Agreement) and the more specific WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Both Agreements desire to further the use of harmonized measures between countries based on the use of internationally agreed standards and both Agreements require countries to give consideration to using internationally agreed standards in the formulation of national standards and other measures.

2. The standards, guidelines and other recommendations of the Codex Alimentarius Commission are explicitly referred to in the SPS Agreement.¹ Domestic food safety measures which conform to Codex standards, guidelines or other recommendations are presumed to be consistent with the SPS Agreement and with the General Agreement on Tariffs and Trade (1994).² The standards, guidelines and other recommendations of the Codex Alimentarius Commission also serve as international standards within the context of the TBT Agreement, which covers all aspects of standardization except the specific measures covered by the SPS Agreement. Members of the WTO are required to base their domestic technical regulations or standards on international standards where relevant international standards exist.³ Although both the SPS and TBT Agreements make provisions that allow national governments to apply standards that diverge from international standards, the legal value of the standards and other texts adopted by the Codex Alimentarius Commission has been greatly enhanced by the WTO Agreements with consequent obligations on WTO Members and on other countries trading with WTO Members.

3. The Codex Alimentarius Commission is an intergovernmental bodies with established Statutes and Rules of Procedure. It is open to all Members of FAO and WHO and currently there are 165 Members. The Commission develops standards through consultative mechanisms with Member governments that allows participation by both direct attendance at meetings (plenary sessions of the Commission and sessions of subsidiary bodies) and by correspondence. In practical terms, developing countries participate directly in the standards-setting activities of the Commission mainly in the plenary Commission sessions (where standards are formally adopted). Participation of developing countries in the committees responsible for drafting proposed standards has been increasing in recent years, but is still below the level of participation in the Commission, or the level

¹ World Trade Organization: *Agreement on the Application of Sanitary and Phytosanitary Measures*, Annex A, paragraph 3(a).

² World Trade Organization: *Agreement on the Application of Sanitary and Phytosanitary Measures*, Article 3.2.

³ World Trade Organization: *Agreement on Technical Barriers to Trade*, Articles 1.1 and 2.4.

that would be considered as being representative of the Commission as a whole as the following table shows. The participation of Eastern European and former CIS countries remains a particular problem.

4. The attached tables show the participation of Member countries in every Codex meeting held since the 22nd Session of the Commission in 1997. In preparing these tables, countries were considered to be "Non-developing" or not "In Transition" if at the time of the meeting they were Members of the OECD or G-8 groupings. Developing countries and Eastern European and former CIS countries in economic transition have been grouped together.

5. The Codex Alimentarius Commission meets biennially alternately in Rome and Geneva. Although participation by accredited representatives to the parent Organizations allows for greater nominal participation, the technical nature of the subject matter does not always ensure that the participation is as effective as it could be. The 28 subsidiary bodies of the Commission responsible for drafting proposed standards meet either annually or biennially, creating a burden on all Member countries in regard to participation costs, but affects developing countries to the greatest extent.

Average Attendance at Codex Meetings (by meeting category)

| Committees (by category) | Countries participating | Of which developing | Of which developing (%) |
|-------------------------------------|------------------------------------|--------------------------------|------------------------------------|
| General Subject | 47 | 24 | 49% |
| Commodity | 31 | 14 | 46% |
| Regional Coordinating | 20 | 13 | 62% |
| Commission | 94 | 66 | 70% |

6. Because the act of adopting a final Codex standard, guideline or other recommendation has consequences for all WTO Members whatever their stage of development and whether or not they have participated in the standards-setting process, the General Council of the WTO has encouraged international standards-setting organizations to ensure the participation of all Members at different levels of development and from all geographic regions throughout all stages of standards development.

7. The major constraints to effective participation of countries in the work of the Codex Alimentarius Commission are:

- lack of effective infrastructures at the national level for the evaluation of draft standards and the formulation of positions in consultation with all interested parties; and
- cost of travel and other participation costs at Codex meetings.

8. The first of these constraints is being addressed by a variety of means, in particular by direct project assistance for the establishment or strengthening national Codex infrastructures. These projects can only be considered sustainable, however, if the country is able to maintain its effective participation in the Commission's work. The second constraint also places a great burden on countries, but is not as critical to effective participation at the first constraint.

II. PROCEDURAL OPTIONS

9. The CAC works through an 8-Step elaboration process that requires two rounds of written consultation with all Member governments (Steps 3 and 6); two rounds of discussion in committee open to all Members (Steps 4 and 7); and two rounds of consideration by the plenary session of the Commission (Steps 5 and 8). Developing countries may participate in all stages of this process, nevertheless, as indicated above, the level of participation does not reflect the full composition of the CAC.

10. Suggestions have been made within the CAC to modify this procedure by either postal balloting on standards or by passing through an approval process by the Regional Coordinating Committees prior to adoption by the Commission. Neither suggestion has received support, principally because the view of the CAC is that its standards should be adopted by consensus by means of an open and transparent process.

11. Maintaining the current procedures, but improving the effectiveness and level of participation in the process is the best option.

III. MEETINGS OPTIONS

A. GENERAL CONSIDERATIONS

12. Since the CAC is a body of both FAO and WHO, formal invitations to attend Codex meetings are sent from the Secretariat to Ministries of Agriculture and Ministries of Health in Member countries according to the official mailing lists of FAO and WHO.⁴ Copies are also sent to the Codex Contact Points notified to the Secretariat by each Member country and to the Permanent Representations to FAO and WHO in Rome and Geneva, respectively. Advance copies of invitations are also sent to the electronic distribution list maintained by the Secretariat. The Provisional Agenda for each meeting is sent together with the invitation.

13. Provisional Agendas and other working documents are sent to Codex Contact Points by mail and via electronic distribution lists. To the extent possible, all Codex documentation is made available on the Internet. The website for Codex documentation is up-dated at least twice per week.

14. The CAC and its subsidiary bodies frequently seek the input of Member countries by means of Circular Letters sent to all Members and interested international organizations (both intergovernmental and non-governmental). In accordance with its Procedure for the Elaboration of Standards, comments are requested from governments at Steps 3, 5, 6 and 8 of the eight-step elaboration procedure. Comments and other input are requested on other occasions as well, for example to seek information on trade. Circular Letters are sent to all Codex Contact Points and to the electronic distribution lists. All comments received are distributed to all other Codex Contact Points (unless received after the deadline) and all written comments are reviewed by Codex Committees in the course of elaborating standards, guidelines or similar recommendations.

15. At the final stage of the process, any Member country can submit written comments directly to the CAC for consideration at the time of the adoption of a standard, guideline or recommendation.

⁴ In some instances, invitations are sent to Ministries of Foreign Affairs or other addresses, depending on the mailing lists for official correspondence established by Members countries and FAO and/or WHO.

B. THE CODEX ALIMENTARIUS COMMISSION

16. Plenary meetings of the Codex Alimentarius Commission currently take place every two years, alternately in Rome and Geneva, the Headquarters of FAO and WHO respectively. This allows a high level of participation especially through the Permanent Representations of countries to the parent Organizations.

C. EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION

17. Under the Statutes and Rules of Procedure of the CAC, the Executive Committee must ensure geographic balance. It is composed of a Chairperson and three Vice-Chairpersons elected in a personal capacity from among delegations, and seven additional Members elected on a Regional basis. The CAC is currently considering proposals that could lead to the abolition of the Executive Committee and its replacement with more frequent session of the Commission, or to an enlargement of the Executive Committee with its regional Membership proportional to the Membership of the regions.

D. CODEX COMMITTEES AND TASK FORCES

18. Codex Committees are organized by host governments, who pay the operating costs of these meetings (interpretation and translation and other meeting costs). The Rules of Procedure of the CAC specify that costs of delegates' participation are borne by the governments concerned. Costs of direct participation therefore pose a constraint to participation by developing countries, however countries may still participate by correspondence.

19. There have been several proposals to improve the participation of developing countries by holding Codex meetings in developing countries, paid for by the usual host country. The recent meetings of the Codex Committee on Food Additives serve to illustrate the potential of this option:

Participation at the Codex Committee on Food Additives and Contaminants (1996 – 2000)

| Year | Place | Countries participating | Of which developing | Of which developing (%) |
|-------------|--------------|--------------------------------|----------------------------|--------------------------------|
| 1996 | Manila | 35 | 16 | 31% |
| 1997 | The Hague | 42 | 17 | 29% |
| 1998 | The Hague | 53 | 28 | 35% |
| 1999 | The Hague | 53 | 30 | 36% |
| 2000 | Beijing | 39 | 20 | 34% |

IV. CONCLUSIONS

20. Various options are available and are being explored to improve the participation of developing countries in the work of the CAC. The greatest constraint to effective participation is lack of effective infrastructures at the national level for the evaluation of draft standards and the formulation of positions in consultation with all interested parties. This constraint can only be removed through the process of technical assistance at an accelerated rate.

CODEX ALIMENTARIUS: PARTICIPANTS BY COMMITTEE GROUP

| Group | Commission | | | | | | | | | |
|---|-------------------------------|-------------|----------------|------------------|----------------|----------------|------------------|--------------|--------------|-------------|
| | Committee | City | Session | Date From | Date To | Non-Dev | Dev/Trans | Total | % Dev | |
| | Codex Alimentarius Commission | Geneva | 22 | 23/06/1997 | 28/06/1997 | 26 | 59 | 85 | 69.4 | |
| | Codex Alimentarius Commission | Rome | 23 | 28/06/1999 | 03/07/1999 | 31 | 72 | 103 | 69.9 | |
| Summary for 'Group' = Commission (2 detail records) | | | | | | Sum | 57 | 131 | 188 | |
| | | | | | | Avg | 28.5 | 65.5 | 94.0 | 69.7 |
| | | | | | | Min | 26 | 59 | 85 | 69.4 |
| | | | | | | Max | 31 | 72 | 103 | 69.9 |

| Group | Executive | | | | | | | | | |
|--|---------------------|-------------|----------------|------------------|----------------|----------------|------------------|--------------|--------------|-------------|
| | Committee | City | Session | Date From | Date To | Non-Dev | Dev/Trans | Total | % Dev | |
| | Executive Committee | Rome | 45 | 03/06/1998 | 05/05/1998 | 5 | 5 | 10 | 50.0 | |
| | Executive Committee | Rome | 46 | 24/06/1999 | 25/06/1999 | 5 | 4 | 9 | 44.4 | |
| | Executive Committee | Geneva | 47 | 28/06/2000 | 30/06/2000 | 5 | 6 | 11 | 54.5 | |
| Summary for 'Group' = Executive (3 detail records) | | | | | | Sum | 15 | 15 | 30 | |
| | | | | | | Avg | 5.0 | 5.0 | 10.0 | 49.7 |
| | | | | | | Min | 5 | 4 | 9 | 44.4 |
| | | | | | | Max | 5 | 6 | 11 | 54.5 |

Group Commodity Committee

| Committee | City | Session | Date From | Date To | Non-Dev | Dev/Trans | Total | % Dev |
|---------------------------------|-----------------|---------|------------|------------|---------|-----------|-------|-------|
| Cocoa Products and Chocolate | Bern | 17 | 16/11/1998 | 18/11/1998 | 20 | 14 | 34 | 41.2 |
| Fats and Oils | London | 16 | 08/03/1999 | 12/03/1999 | 19 | 10 | 29 | 34.5 |
| Fats and Oils | London | 17 | 19/02/2001 | 23/02/2001 | 15 | 16 | 31 | 51.6 |
| Fish and Fishery Products | Bergen | 23 | 08/06/1998 | 12/06/1998 | 21 | 17 | 38 | 44.7 |
| Fish and Fishery Products | Aalesund | 24 | 05/06/2000 | 09/06/2000 | 23 | 20 | 43 | 46.5 |
| Fresh Fruit and Vegetables | Mexico City | 9 | 09/10/2000 | 13/10/2000 | 15 | 18 | 33 | 54.5 |
| Fresh Fruits and Vegetables | Mexico City | 7 | 08/09/1997 | 12/09/1997 | 9 | 14 | 23 | 60.9 |
| Fresh Fruits and Vegetables | Mexico City | 8 | 01/03/1999 | 05/03/1999 | 8 | 20 | 28 | 71.4 |
| Milk and Milk Products | Montevideo | 3 | 18/05/1998 | 22/05/1998 | 23 | 17 | 40 | 42.5 |
| Milk and Milk Products | Wellington | 4 | 28/02/2000 | 03/03/2000 | 24 | 9 | 33 | 27.3 |
| Natural Mineral Waters | Bern | 16 | 19/11/1998 | 21/11/1998 | 20 | 9 | 29 | 31.0 |
| Processed Fruits and Vegetables | Washington D.C. | 19 | 16/03/1998 | 20/03/1998 | 12 | 14 | 26 | 53.8 |
| Processed Fruits and Vegetables | Washington D.C. | 20 | 11/09/2000 | 15/09/2000 | 13 | 12 | 25 | 48.0 |
| Sugars | London | 7 | 09/02/2000 | 11/02/2000 | 17 | 9 | 26 | 34.6 |

Summary for 'Group' = Commodity Committee (14 detail records)

| | | | | |
|------------|------|------|------|-------------|
| Sum | 239 | 199 | 438 | |
| Avg | 17.1 | 14.2 | 31.3 | 45.9 |
| Min | 8 | 9 | 23 | 27.3 |
| Max | 24 | 20 | 43 | 71.4 |

Group General Subject Committee

| Committee | City | Session | Date From | Date To | Non-Dev | Dev/Trans | Total | % Dev |
|---|-----------------|----------------|------------------|----------------|----------------|------------------|--------------|--------------|
| Food Additives and Contaminants | The Hague | 30 | 09/03/1998 | 13/03/1998 | 25 | 28 | 53 | 52.8 |
| Food Additives and Contaminants | The Hague | 31 | 22/03/1999 | 26/03/1999 | 23 | 30 | 53 | 56.6 |
| Food Additives and Contaminants | Beijing | 32 | 20/03/2000 | 24/03/2000 | 19 | 20 | 39 | 51.3 |
| Food Hygiene | Washington D.C. | 30 | 20/10/1997 | 24/10/1997 | 25 | 29 | 54 | 53.7 |
| Food Hygiene | Orlando | 31 | 26/10/1998 | 30/10/1998 | 26 | 22 | 48 | 45.8 |
| Food Hygiene | Washington D.C. | 32 | 29/11/1999 | 04/12/1999 | 25 | 42 | 67 | 62.7 |
| Food Hygiene | Washington D.C. | 33 | 23/10/2000 | 27/10/2000 | 22 | 34 | 56 | 60.7 |
| Food Import and Export Inspection and Certification Systems | Melbourne | 6 | 23/02/1998 | 27/02/1998 | 24 | 31 | 55 | 56.4 |
| Food Import and Export Inspection and Certification Systems | Melbourne | 7 | 22/02/1999 | 26/02/1999 | 22 | 22 | 44 | 50.0 |
| Food Import and Export Inspection and Certification Systems | Adelaide | 8 | 21/02/2000 | 25/02/2000 | 23 | 19 | 42 | 45.2 |
| Food Import and Export Inspection and Certification Systems | Perth | 9 | 11/12/2000 | 15/12/2000 | 20 | 23 | 43 | 53.5 |
| Food Labelling | Ottawa | 26 | 26/05/1998 | 29/06/1998 | 23 | 19 | 42 | 45.2 |
| Food Labelling | Ottawa | 27 | 27/04/1999 | 30/04/1999 | 26 | 20 | 46 | 43.5 |
| Food Labelling | Ottawa | 28 | 08/05/2000 | 12/05/2000 | 25 | 17 | 42 | 40.5 |
| General Principles | Paris | 13 | 07/11/1998 | 11/09/1998 | 25 | 32 | 57 | 56.1 |
| General Principles | Paris | 14 | 19/04/1999 | 23/04/1999 | 23 | 24 | 47 | 51.1 |
| General Principles | Paris | 15 | 10/04/2000 | 14/04/2000 | 24 | 27 | 51 | 52.9 |
| Methods of Analysis and Sampling | Budapest | 22 | 23/11/1998 | 27/11/1998 | 20 | 17 | 37 | 45.9 |
| Methods of Analysis and Sampling | Budapest | 23 | 26/02/2001 | 02/03/2001 | 23 | 17 | 40 | 42.5 |
| Nutrition and Foods for Special Dietary Uses | Berlin | 21 | 21/09/1998 | 25/09/1998 | 24 | 18 | 42 | 42.9 |
| Nutrition and Foods for Special Dietary Uses | Berlin | 22 | 19/06/2000 | 23/06/2000 | 26 | 25 | 51 | 49.0 |
| Pesticide Residues | The Hague | 30 | 20/04/1998 | 25/04/1998 | 26 | 23 | 49 | 46.9 |
| Pesticide Residues | The Hague | 31 | 12/04/1999 | 17/04/1999 | 25 | 25 | 50 | 50.0 |
| Pesticide Residues | The Hague | 32 | 01/05/2000 | 08/05/2000 | 27 | 21 | 48 | 43.8 |
| Residues of Veterinary Drugs in Foods | Washington D.C. | 11 | 15/09/1998 | 18/09/1998 | 23 | 18 | 41 | 43.9 |
| Residues of Veterinary Drugs in Foods | Washington D.C. | 12 | 28/03/2000 | 31/03/2000 | 23 | 11 | 34 | 32.4 |

Summary for 'Group' = General Subject Committee (26 detail records)

| | | | | |
|------------|------|------|-------|-------------|
| Sum | 617 | 614 | 1,231 | |
| Avg | 23.7 | 23.6 | 47.3 | 49.1 |
| Min | 19 | 11 | 34 | 32.4 |
| Max | 27 | 42 | 67 | 62.7 |

Group Regional Committee

| Committee | City | Session | Date From | Date To | Non-Dev | Dev/Trans | Total | % Dev |
|--|---------------|----------------|------------------|----------------|----------------|------------------|--------------|--------------|
| Africa | Harare | 13 | 03/11/1998 | 06/11/1998 | 1 | 22 | 23 | 95.7 |
| Asia | Chiang Rai | 11 | 16/12/1997 | 19/12/1997 | 4 | 18 | 22 | 81.8 |
| Asia | Chiang Mai | 12 | 23/11/1999 | 26/11/1999 | 4 | 15 | 19 | 78.9 |
| Europe | Madrid | 21 | 05/05/1998 | 08/05/1998 | 19 | 3 | 22 | 13.6 |
| Europe | Madrid | 22 | 03/10/2000 | 06/10/2000 | 19 | 4 | 23 | 17.4 |
| Latin America and the Caribbean | Montevideo | 11 | 08/12/1998 | 11/12/1998 | 2 | 21 | 23 | 91.3 |
| Latin America and the Caribbean | Santo Domingo | 12 | 13/02/2001 | 16/02/2001 | 2 | 20 | 22 | 90.9 |
| Near East | Cairo | 1 | 29/01/2001 | 01/02/2001 | 2 | 18 | 20 | 90.0 |
| North America and the South-West Pacific | Seattle | 5 | 06/10/1998 | 09/10/1998 | 4 | 5 | 9 | 55.6 |

Summary for 'Group' = Regional Committee (9 detail records)

| | | | | |
|------------|-----|------|------|-------------|
| Sum | 57 | 126 | 183 | |
| Avg | 6.3 | 14.0 | 20.3 | 68.4 |
| Min | 1 | 3 | 9 | 13.6 |
| Max | 19 | 22 | 23 | 95.7 |

Group Task Force

| Committee | City | Session | Date From | Date To | Non-Dev | Dev/Trans | Total | % Dev |
|----------------------------------|-------------|----------------|------------------|----------------|----------------|------------------|--------------|--------------|
| Animal Feeding | Copenhagen | 1 | 13/06/2000 | 15/06/2000 | 25 | 10 | 35 | 28.6 |
| Foods Derived from Biotechnology | Chiba | 1 | 14/03/2000 | 17/03/2000 | 20 | 13 | 33 | 39.4 |
| Fruit and Vegetable Juices | Brasilia | 1 | 18/09/2000 | 22/09/2000 | 14 | 9 | 23 | 39.1 |

Summary for 'Group' = Task Force (3 detail records)

| | | | | |
|------------|------|------|------|-------------|
| Sum | 59 | 32 | 91 | |
| Avg | 19.7 | 10.7 | 30.3 | 35.7 |
| Min | 14 | 9 | 23 | 28.6 |
| Max | 25 | 13 | 35 | 39.4 |

| | | | | |
|--------------------|--------------|--------------|--------------|-------------|
| Grand Total | 1,044 | 1,117 | 2,161 | 51.7 |
|--------------------|--------------|--------------|--------------|-------------|