

REPORT OF THE INDIAN DELEGATION TO THE 15<sup>TH</sup> SESSION OF  
THE CODEX COMMITTEE ON FOOD IMPORT & EXPORT  
INSPECTION AND CERTIFICATION SYSTEMS  
( Argentina : November 6 – 10, 2006 )

1. The 15<sup>th</sup> of Session of the Codex Committee on Food Import & Export Inspection and Certification Systems (CCFICS) was held at Mar del Plata, a coastal city in Argentina during November 6 – 10, 2006. The Session was chaired by Mr. Greg Read, Executive Manager – Exports, Australian Quarantine Inspection Service, Govt. of Australia. The Indian delegation comprised of the following :

- (1) Mr. Dinesh Sharma, Jt. Secretary, Ministry of Commerce
- (2) Mr. S Dave, Director, APEDA

2. Before departure from India, extensive discussions were held to finalize India's comments on the agenda. These were forwarded to the National Codex Contact Point in the Ministry of Health for onward transmission to the Codex Secretariat.

The main points that were decided to be stressed at the meeting were:

- a) Change the definition of "consignment" to link it with the certificates, so as to make it definitive. This was necessary to prevent rejection of total shipments, for failure of any part of that shipment to which a certificate related.
- b) All references in the draft (for Design, Issuance, Use etc. of Certificates) about the *quality of food* should be omitted since this did not fall strictly within the mandate of the Codex (which was limited to ensuring food safety and fair trade practices).
- c) To resist inclusion of names and addresses of processors as a "minimum" requirement in any certificate. Putting this clause as a minimum requirement in each certificate would, theoretically, make each exporter liable to reveal all the processors, which handled each ingredient of a food article.
- d) To bring an element of consideration of costs while determining the principles on which any additional information are asked by the importing country.
- e) To have specific mention in the principles that re-certification (by the importing country) should not be required.
- f) To insist that Custom Unions should have only one certificate.

3. It was decided, in consultation with the Jt. Secy, Ministry of Health, not to raise, *suo motu*, the issue of "traceability" in the form of asking, as a new work, for the drafting of guidelines for implementing traceability in practice. It was however, decided to support such demand if made by others at the current CCFICS Session.

India's comments were on Agenda Nos. 2, 3(a) and 3(b) were contained in CRD – 8 (copy enclosed). A copy of all the other CRDs is also enclosed.

Prior to the plenary, a meeting of the Asia group was organized by Korea, which is the co-ordinator for Asia. Japan, Thailand and India attended the meeting held on 6<sup>th</sup> November. During the limited time available, the delegations exchanged views on Agenda No. 3 (a) pertaining to the proposed Draft Revision of the Guidelines for Generic Official Certificate Formats. While Japan had divergent views, which were mostly aligned to the views of developed countries, India and Thailand agreed to support each other on issues of interest. A copy of the draft report presented by the Codex Secretariat for adoption is also enclosed.

The CCFICS Session was inaugurated by Mr. Fernando Nebbia, Under Secretary, Food and Agriculture Policy, Govt. of Argentina. The major interventions of India and other countries and the ensuing discussions & decisions on various agenda items are given below :

Agenda No. 1 – Adoption of the Agenda ( CX/FICS 06/15/1 )

The Provisional Agenda was adopted. New Zealand proposed to introduce two proposals for new work as follows :

- (a) The revision and amendment of the Principles for Food Import & Export Inspection and Certification (CAC/GL 20-1995); and
- (b) The revision and amendment of the Guidelines for the Design, Operation, Assessment and Accreditation of Food Import & Export Inspection and Certification Systems (CAC/GL 26-1997).

This was accepted by the Committee for discussion under Agenda No. 5.

Subsequently, it was learnt that Australia would propose another item for new work to review the Terms of Reference of the CCFICS and a guidance document for the Conduct of Foreign Audit Team Inspections. It was also learnt that Norway would also propose an item for new work for formulating the guidelines for implementation of traceability/product tracing in the context of food import & export inspection and certification systems. Both Australia and Norway made their proposals.

The two proposals each from New Zealand and Australia as well as the one from Norway are discussed later in the report.

Agenda No. 2 – Matters referred by the Codex Alimentarius Commission and other Codex Committees and Task Forces (CX/FICS 06/15/2)

Mainly, there were two items adopted by the Codex Alimentarius Commission at its 29<sup>th</sup> Session held in July 2006, for information of the committee. These were as follows :

- (a) Proposed Draft Principles and Guidelines for Imported food Inspection based on Risk adopted at Step 5/8.
- (b) Proposed Draft Principles for Traceability/Product Tracing as a tool within a Food Import & Export Inspection and Certification System.

These were noted by the Committee.

Agenda No. 3(a) – Proposed Draft Revision of the Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates – *at Step 3* (CX/FICS 06/15/3)

The agenda was presented by USA, as the leader of the Drafting Group. At the initiation of India, the title was changed to “Draft Revision of the Guidelines for Generic Official Certificate Formats and the Design, Production, Issuance and Use of Certificates”.

Definitions – The word, “Certificate” was changed to ‘*Official Certificates*’. There were long discussions on the definition of the word, ‘Consignment’. Canada started the discussion by suggesting that a consignment should be covered by a single certificate. India, Brazil, US and Chile supported them. The EC, agreeing to the proposal, was of the view that it should be covered by the same transport arrangement. While Malaysia supported the original definition as drafted, India and Thailand were of the view that the consignment should also be delivered at the same time. Finally, the definition agreed to stated, “*Consignment means a defined collection of food products covered by a single certificate.*”

Principles – While there were considerable discussions on the eight principles, eventually no changes were made. The Indian delegation also did not press for modifications as we had the option of incorporating our points in the text of each principle.

Use of Certificates – There were long discussions with regard to the need for retaining the quality aspects of food in para 10. Australia, Norway and the EC were of the view that if the reference to quality (3<sup>rd</sup> bullet) had to be dropped, then either 'fair trade' should include the quality aspects of food or there should be a foot-note giving reference to examples of 'organic, halal, kosher etc.'. India strongly objected to this and found support from South Africa, Argentina, Brazil, Canada, China and the US. Accordingly, the 3<sup>rd</sup> bullet relating to quality as well as the proposed foot-note was dropped. The reservation of Norway and the EC was noted. At our intervention, para 9 was also dropped, as we were supported by Argentina, Chile, New Zealand and Thailand.

This is a very significant success of the mission. We were not able to prevent the inclusion of similar footnote in the last meeting of the CCFICS (in the context of traceability). An inclusion of such reference in a Codex document would have definitely increased the capacity of an importing country to ask for unreasonable quality parameters, and still not be liable to be hauled before the WTO. (since only those SPS measures which are not as per Codex standards can be prima facie suspected to be non-tariff barriers).

Alternatives to the Use of Official Certificates – India's suggestion to modify para 13 was accepted. However, detailed discussions took place with regard to the issue of certificates covering single and multiple consignments. India was of the view to delete para 16 since it was inconsistent with the revised definition of the consignment. Some countries also supported us. However, in the interest of keeping a flexibility of having multiple consignments as an exception (and not as a rule) it was decided to add "normally" to the definition of the consignment and to keep this para as well.

Extent of Information, Transparency and Non-Discrimination – The issue of unjustified burden on the exporting country was raised by us. This was agreed to - although through a formulation different from what was suggested by us.

Design of Certificates – Under this, India raised two issues. One, that countries in a customs union should accept the standard format of the official certificate, and the other, that re-certification in the importing country should not be necessary. The first one was not accepted as Argentina mentioned that while Mercosur was a customs union for free movement of goods, it did not necessarily mean that their health regulations were also harmonized. The issue of 're-certification' was accepted and added to one of the existing bullets. This was also an important achievement from India's point of view.

Our objection to the insistence on inclusion of name and address of processor being a minimum requirement on the certificate was discussed at length. We argued that there might be a number of processors before a final exportable product is produced and, therefore, providing the names & addresses of the intermediate processors was impractical. It may also not be an accepted trade practice to reveal the name of the processor. And hence, though any importer could ask for these details, this should not be provided as a minimum requirement for any certificate as per Codex standards. Though the US, New Zealand and Belgium supported us, there was considerable opposition to our proposal from some other quarters, particularly from Japan and Argentina. As a compromise, we were ready to accept the word last processor or manufacturer. Finally, the word 'processor' was modified to 'producer/manufacturer'. This substantially meets the objective behind our objection to the original draft. There were also considerable discussions with regard to the particular regions and regionalization in the country of dispatch and destination. A number of countries were not in favour of bringing regionalization in the document. Therefore, it was agreed to refer to it only in the context of specific attestations.

India's subsequent comments concerning the need for a system for retrieval of certificates, validity of certificates and combination of paper & electronic certificates were not supported and, hence, were not included.

Fraudulent certificates – India supported Thailand on the issue of the need to have 'reasonable ground' for suspecting a certificate to be fraudulent. This point was incorporated. The issue relating to destruction of a consignment supported by a fraudulent certificate was also discussed. After detailed discussion, it was agreed that destruction of the food consignment was one of the options to work as a deterrent to issue of fraudulent certificates.

*With the above and certain other amendments proposed by different countries, the document was accepted at Step 5 and the Committee agreed to recommend it to the Codex Alimentarius Commission for adoption at Step - 8 at its next Session.*

Agenda No. 3(b) – Proposed Draft Appendix to the Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Import & Export Inspection and Certification Systems – *at Step 3 ( CX/FICS 06/15/4 )*

The document was introduced by USA as the leader of the Working Group. The Chairman solicited general comments from the Committee that were provided by a number of countries, who traced its historical background and elaborated on their view points in great detail. A variety

of comments were offered. Certain countries referred to the need for considering the amount of resources required by an importing country to comply with requests for equivalence determination. It was felt that priorities might need to be defined. The European Commission even went to extent of suggesting that the importing countries had the right to refuse consideration of equivalence. At this, the representative of WTO stated that all countries had an obligation to consider proposals for the judgement of equivalence. Some countries were of the view that linkages between experience, knowledge and confidence were important aspects for consideration and many sanitary measures had qualitative characteristics and not quantitative. India suggested that apart from products, production process(es) could also be the subject of equivalence, which was noted. It was also suggested that time frame was also an important aspect to reach an equivalence determination.

After considerable inputs, the Committee agreed to retain it at Step – 3 for further development by the Working Group taking into account the parent document and the document No. CAC/GL 53-2003. India is already a member of the Working Group.

India expressed concern that the document had already taken two years and the Committee was still brain-storming on the subject with divergent views. At this speed, the document was far from finalization at any time in near future and this could be to the detriment of exporting countries. The Chairman and also the US agreed with this sentiment and said that they too felt the same way. US added that there may be a need to narrow the guidance to make it more useful. New Zealand and Australia felt that we should focus on the key issues and the newer issues could be considered later. It was pointed out that the Committee should consider upfront context of the document covering experience, knowledge & confidence and their implications in determining which measures are acceptable, which are subject to objective basis of comparison. It was agreed that the Committee should either utilize the current document or attach newly developed documents to the current text, but the outcome should not be repetitive. All the comments made during the plenary as well as the CRDs would be taken into consideration and the US would circulate the document to all the members and not to the working group members alone.

Equivalence is a vital issue for the developing countries' exports. Any progress achieved in this regard can help in taking care of many non-tariff barriers put in the form of SPS issues. The manner in which the discussions proceeded, gave the impression that there may be a design (on the part of the developed countries) to delay the finalization and adoption of a document on this subject. Hence instead of falling into the trap of getting involved in further discussions in the name of

philosophical, ideological, technical practical or legal issues, the developing countries should concentrate more on having the document out, in a usable form, at the earliest possible.

Agenda No. 4 – Discussion Paper on questions related to the Codex Code of Ethics for International Trade in Foods ( CX/FICS 06/15/5 )

The Committee did not have major discussions on this agenda, which basically considered the three recommendations made by the electronic Working Group led by Canada set up at the instance of CCGP on the issue of *“subsequent export of food, whether imported or produced domestically, that had been found to be unsafe or unsuitable”*. The three recommendation were :

- (a) that CCFICS should ask member countries to identify the specific provisions that may need to be amended or added, and submit specific proposals for new work for consideration at the next Session.
- (b) that sufficient Codex guidance was available in the existing texts and the main issue was of capacity building. It was recommended that the following be forwarded to the CCGP for consideration :
  - Codex should encourage member countries to further implement the provisions in the existing CCFICS texts related to *“subsequent export of food, whether imported or produced domestically, that had been found to be unsafe or unsuitable”* ;
  - Codex should encourage FAO & other international organizations to give priority to providing technical assistance to member countries with insufficient capacity for establishing and implementing food import and export control systems ;
  - Codex should encourage those member countries with insufficient control systems to give priority in their capacity building technical assistance needs assessments to the issue of import control systems.
- (c) that CCFICS should debate the merits of the proposal put forth on the establishment of a general principle addressing the export or re-export of unsafe or unsuitable food; and if the Committee would agree to the need for such a principle, it should hold discussion on its most appropriate placement in the Codex texts.

There was general support for the recommendation (a). In case of recommendation (b), there was consensus on the bullet points proposed under but not on the chapeau. The recommendation (c) was supported

by the EC, New Zealand and Switzerland. Malaysia also supported it but stated that there was no need for a new text in the existing CCFICS text. Brazil, however, felt that there was no need for a new principle.

The Committee, therefore, decided to report back to the CCGP that the Committee achieved consensus on recommendations (a) and (b) but there was no consensus on the recommendation (c).

#### Agenda No. 5 – Other Business and Future Work

Under this agenda, initially, there were only two items for new work proposed by New Zealand, but later three more items were presented for discussion. The items proposed for new work were as follows :

- (a) The revision and amendment of the Principles for Food Import & Export Inspection and Certification (CAC/GL 20-1995) *(Proposed by New Zealand in CRD-3)*.
- (b) The revision and amendment of the Guidelines for the Design, Operation, Assessment and Accreditation of Food Import & Export Inspection and Certification Systems (CAC/GL 26-1997) *(Proposed by New Zealand in CRD-3)*.
- (c) Review of the Terms of Reference of Codex Committee on Food Import & Export Inspection and Certification Systems (CCFICS) *(Proposed by Australia in CRD-11)*.
- (d) Development of Guidance for the Conduct of Foreign Audit Team Inspections *(Proposed by Australia in CRD-11)*.
- (e) Development of Guidelines for the implementation of Traceability/ Product Tracing in the context of Food Import & Export Inspection and Certification Systems *(Proposed by Norway towards the end)*.

Deliberations on each of the above are summarized below:

- (a) The revision and amendment of the Principles for Food Import & Export Inspection and Certification (CAC/GL 20-1995) ;
- (b) The revision and amendment of the Guidelines for the Design, Operation, Assessment and Accreditation of Food Import & Export Inspection and Certification Systems

New Zealand presented their proposals. There was no consensus on support for the above two items proposed by New Zealand as items for new work. While Australia, Canada and Thailand

supported the proposals, the EC and Italy opposed them desiring to know how these would be integrated with the guidelines on judgement of equivalence. The US had no objection to the proposals but feared that the entire document might get opened up for discussion. They, therefore, suggested that first a discussion paper may be brought for consideration.

It was decided that New Zealand might bring a discussion paper before the Committee in its next meeting for consideration. Norway supported the decision and suggested that further justification may be provided for the new work along with the proposed changes.

- (c) Review of the Terms of Reference of Codex Committee on Food Import & Export Inspection and Certification Systems (CCFICS) ;
- (d) Development of Guidance for the Conduct of Foreign Audit Team Inspections.

Australia presented their proposals. With regards to the item at (c) above, it was proposed to bring domestic procedures of countries into the purview of CCFICS. While Argentina supported the proposal, Japan was of the view that the Terms of Reference of CCFICS were alright. Malaysia also did not support extension in the scope of the terms of reference. The EC supported the proposal but added that the CRD-11 did not provide details or a discussion paper. The US also supported the proposal in principle, but stated that the terms of reference were sufficiently broad and, therefore suggested that enough reasoning was required. Subsequently, Argentina and Norway added that CCFICS texts were meant for exports and imports and that the domestic procedures of countries may be different from that for exports. Due to lack of consensus, the Committee did not agree to move forward.

The proposal at (d) above was supported by the EC. The US also supported it but added that they needed to know more about what was being proposed to be done by the audit teams. Argentina stated that the proposal needed to be more specific. Japan also stated that on-site visits were more important but the proposal needed more discussion.

As there was consensus on the subject, the Committee decided that Australia would prepare a discussion paper along with draft guidelines for discussion in the next meeting of the CCFICS.

- (e) Development of Guidelines for the implementation of Traceability/Product Tracing in the context of Food Import & Export Inspection and Certification Systems.

Norway mooted the above proposal. Brazil and Argentina stated that the principles had just been adopted and domestically they were having a lot of controversy as to how the concept would be helpful. They felt that it was too early and suggested to defer it to 2008. The EC, India and Philippines supported the proposal. Canada stated that we needed to decide whether such a document was required. The Committee decided that Norway might prepare a discussion paper through an electronic Working Group. India agreed to be a member of this group.

A summary of decisions taken on the Agenda items with details of action further required (from India's point of view) are given in the Annex. A copy of the Session's draft report that was taken up for adoption is also enclosed for reference. The adopted version is awaited on the Codex website.

## 6. Recommendations

- (1) Equivalence of Sanitary Measures is an important issue for a country exporting primary agricultural and food products. Hence, it should be our endeavour to give the highest priority to getting the document on guidelines for such equivalence passed as early as possible. India is a member of the Working Group on the document on "Proposed Draft Appendix to the Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Import/Export Inspection and Certification Systems". As soon as the revised draft is received, it should be reviewed. India should also actively participate in the Working group meeting as the document would have a bearing on equivalence negotiations with other countries.
- (2) India has also agreed to be a member of the electronic Working Group on the document on "Development of Guidelines for the implementation of Traceability/Product Tracing in the context of Food Import & Export Inspection and Certification Systems". We would need to formulate our views as soon as the draft is received and also participate in the Working Group.

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*Summary of decisions on the Agenda*

Agenda No.	Subject	Committee's Decision	Action Point for India
1.	Adoption of the Agenda ( CX/FICS 06/15/1 )	Agenda adopted for discussion. Items for new work also included for consideration.	Nil
2.	Matters referred by the Codex Alimentarius Commission and other Codex Committees and Task Forces ( CX/FICS 06/15/2 )	CAC decisions noted by the Committee.	Nil
3(a)	Proposed Draft Revision of the Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates – <i>at Step 3</i> ( CX/FICS 06/15/3 )	Revision of the document adopted at Step 5 with a recommendation to CAC for adoption at Step 8.	Nil
3(b)	Proposed Draft Appendix to the Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Import/Export Inspection and Certification Systems – <i>at Step 3</i> ( CX/FICS 06/15/4 )	Document retained at Step 3 for further development by the Working Group led by the US.	India is a member of the Working Group and should participate in the meeting and work for faster passage of this work.

4.	Discussion Paper on questions related to the Codex Code of Ethics for International Trade in Foods (CX/FICS 06/15/5)	Committee to report back to CCGP that there was consensus on recommendations (a) and (b) but not on (c).	Indian delegation to CCGP may firm up views before it's meeting in April 2007.
5.	<u>Other Business and Future Work</u>		
	(a) The revision and amendment of the Principles for Food Import & Export Inspection and Certification (CAC/GL 20-1995)	No consensus on moving forward.	Nil
	(b) The revision and amendment of the Guidelines for the Design, Operation, Assessment and Accreditation of Food Import & Export Inspection and Certification Systems	No consensus on moving forward.	Nil
	(c) Review of the Terms of Reference of Codex Committee on Food Import & Export Inspection and Certification Systems (CCFICS)	Due to lack of consensus, the Committee did not agree to move forward.	Nil
	(d) Development of Guidance for the Conduct of Foreign Audit Team Inspections.	Australia to prepare a discussion paper along with draft guidelines.	Nil
	(e) Development of Guidelines for the implementation of Traceability / Product Tracing in the context of Food Import & Export Inspection and Certification Systems.	Norway may prepare a discussion paper through an electronic Working Group.	As India agreed to be a member of the Working Group, we would need to formulate our views as soon as the draft is received.