ANALYSIS OF AGENDA ITEMS AND PREPARATION FOR THE 25th SESSION OF THE CODEX COMMITTEE ON FOOD IMPORT AND EXPORT INSPECTION AND CERTIFICATION SYSTEMS (CCFICS25)

31st May – 8 June 2021 Virtual Meeting

AGENDA ITEMS 4, 5 and 6

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ITEM	**SUBJECT MATTER**
Objectives	Description of this document's intent
Agenda Item 4	Draft Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance (vTPA) Programmes – at Step 6
Agenda Item 5	Proposed draft Guidance on paperless use of electronic certificates (revision of the Guidelines for Design, Production, Issuance and Use of Generic Official Certificates – CXG 38-2001) – at Step 3
Agenda Item 6	Proposed draft guidelines on recognition and maintenance of equivalence of National Food Control Systems (NFCS) - at Step 3

Objectives

This document offers a review and analysis of the agenda items planned for discussion at the 25th session of the Codex Committee on Food Import and Export Inspection and Certification Systems, scheduled to take place virtually from May 31st to June 8th, 2021. The document is intended for possible use by the Codex communities of practice promoted by GFoRSS and PARERA, as part of their contribution to enhancing awareness and supporting effective participation in international food standard setting meetings (Codex meetings) by representatives from members and observers.

The analysis provided in this document offers a factual review of agenda items, their background and a discussion of some considerations. This analysis is indicative in nature and does not represent an official position of the organizations mentioned above (PARERA and GFoRSS), their membership or their management.

This analysis is prepared as part of the **Codex Initiative for the Middle East and North Africa**: *MENA Codex Initiative*, implemented by PARERA and GFoRSS and funded by the US Codex Office, US Department of Agriculture.

Agenda Item 4: Draft Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance (vTPA) Programmes – at Step 6

Documents: CX/FICS 21/25/4; CX/FICS 21/25/4 Add.1

Background

At its 24th Session, CCFICS (2018) recommended the adoption of the proposed draft principles and guidelines for the assessment and use of voluntary Third Party Assurance (vTPA) programs to CAC42 (2019).

CAC42 endorsed this recommendation and adopted the text at Step 5.

An Electronic Working Group (EWG) was established to address outstanding issues and to consider primarily the text that was left in square brackets.

The extended period of time between CCFICS24 and CCFICS25 was put into use and permitted the gathering of additional comments from EWG members and from Codex delegations.

The EWG co-chairs (UK, Canada and Mexico) summarized the outstanding issues and manner in which they addressed comments.

Analysis

The proposed guidelines and principles offer a structured approach to assess and use information generated for the use of vTPA programs by food competent authorities.

The advantages pursued through the use of such data and information as part of regulatory programs – i.e. conformity assessments – include:

➢ Access to data (audit, intelligence) gathered through the implementation of the program – i.e. from certification bodies.

➢ Enhanced ability to "risk profile" food business operators (FBOs).

➢ Improved ability to prioritize resources.

Some key due diligence requirements for the integration of such Programs and their outputs must be observed and include:

➢ The necessity to either develop an agreement with the vTPA owner and/or to establish systematic approaches to access data generated / collected through the program implementation with FBOs – clear rules of engagement are to be established.

➢ The need to ensure the integrity and competency of the vTPA system used, once chosen.

➢ The importance of not favoring a program versus another as long as criteria are fulfilled.

➢ Requirements of the vTPA to be used in the context of regulatory compliance may not "trump" the overall regulatory measures.

Conclusion

Given the level of input provided on the text by Codex delegations and the rigorous process followed by the EWG to address comments provided, the amended version of the proposed guidelines may, following discussion at plenary, move to adoption at step 8 of the Codex procedure.

The main test resides in how this guidance will be applied.

In consideration of the upcoming pilot studies decided by STDF to implement such "use of vTPA in food regulatory measures", there is an opportunity for MENA countries to be part of them.

Agenda Item 5: Proposed draft Guidance on paperless use of electronic certificates (revision of the Guidelines for Design, Production, Issuance and Use of Generic Official Certificates – CXG 38-2001) – at Step 3

Documents: CX/FICS 21/25/5; CX/FICS 21/25/5 Add.1

Background

CCFICS23 (2017) agreed to submit a proposal to review CAC/GL 38-2001 Guidelines for design, production, issuance and use of generic official certification, which was approved by CAC40 (2017).

CCFICS24 considered an initial draft, but returned it to step 2 as a result of a significant number of comments.

The physical working group, agreed to be held subsequent to CCFICS24, could not be organized and comments continued to be provided.

Considerations and Current State

➢ Significant progress was achieved in addressing comments previously made.

➢ Some drafting issues continue to exist – e.g. definitions in Annexes, rather than in the core document, inconsistency in language continue in some instances.

➢ Annex II related to the "Paperless Exchange of Official Certification" continues to be the focus of the majority of comments and would require dedicated attention / discussion, with possible consideration to the following:

▪ The term non-repudiation as used and defined may infer that this approach (electronic means to confirm issuance of an official certificate) may be the only means by which authenticity or verification of paperless exchange is achieved.

 The term may also have multiple legal, regulatory and technical meanings.

➢ There may be a need to proceed to a systematic review of the data elements included in the model certificate, such that they are deemed to be:

▪ Essential for food considerations.

▪ Non-redundant with fields collected through the electronic single window environment (they need to be complementary).

Overall, and given the emphasis that needs to be made on the data model, this part may progress (in the discussion) separately from the main text.

Conclusion

It is expected that this text, including the Annexes, will require additional focus on improving its drafting, while ensuring that the areas which have progressed achieve the level of consensus necessary and are not re-opened.

Agenda Item 6: Proposed draft guidelines on recognition and maintenance of equivalence of National Food Control Systems (NFCS) – at Step 3

Documents: CX/FICS 21/25/6; CX/FICS 21/25/6 Add.1

Background

A discussion paper was considered by CCFICS22 (2016) on recognition and maintenance of equivalence of National Food Control Systems, leading to the development of a project document.

Despite the complexity of the topic of system equivalence, it was agreed that more guidance was needed to offer a suite of tools that enabled a competent authority to provide assurances of its food safety oversight.

CCFICS23 (2017) reviewed an updated discussion paper and a project document.

The scope of new work was further clarified to be / act as a complement to the existing Codex text:

➢ CXG 26-1997: Guidelines on the design, operation, assessment and accreditation of food import and export inspection and certification systems.

➢ CXG 34-1999: Guidelines on equivalence agreements regarding food import and export inspection and certification systems.

➢ CXG 53-2003: Guidelines on the judgement of equivalence of sanitary measures associated with food inspection and certification systems.

➢ The proposed text would also align with CXG 82-2013 and CXG 89-2016 (principles and guidelines for the exchange of information between importing and exporting countries to support the trade in food).

The project documents were approved by CCFICS23 (2017) and further endorsed by the Commission at CAC40 (2017).

The drafting process was carried out through a mix of physical and virtual meetings of a working group chaired by New Zealand and supported / co-chaired by the US and Chile.

CCFICS24 (2018) discussed an earlier draft of the proposed guidelines. There were several rounds of comments provided from 2018 – 2021.

Considerations

➢ This guidance offers a practical direction to structure the interaction between competent authorities of importing and exporting countries to determine system equivalence beyond single measures.

➢ It is not meant to replace / subsume traditional measure-by-measure equivalence, CXG 53-2003, this aspect may need to be further reinforced.

➢ It may be important to further emphasize the important country's prerogative (that of the competent authority) to choose its own pathway to equivalence (timing, criteria, etc.).

➢ It may also be important to reinforce aspects of transparency and stakeholder notification in the course of the process.

Conclusion

Depending on the level of input provided by delegations during CCFICS25 and considering the extensive feedback provided, in addition to the rigorous approach pursued to accommodate and respond to comments received, this draft could be advanced for adoption at Step 5.