

EU reply to CL 2024/70-FICS
PROPOSED DRAFT CONSOLIDATED CODEX GUIDELINES RELATED TO
EQUIVALENCE

Mixed Competence
European Union Vote

The European Union and its Member States (EUMS) would like to thank New Zealand, the United States and Kenya for leading this work on equivalence.

The EUMS would like to suggest the following comments.

Section 4: Definitions

Question 1: Is the current approach and wording supported?

For consistency reasons and to avoid difficulties and confusion in interpretation, the full phrase “objectives, and related outcomes or level of protection” should always be used. It has to borne in mind that later reciting will occur and may lead to different interpretations or questions if the full phrase is not always repeated.

Question 2: Is the current proposed wording supported?

It is supported to use ‘measure’ referring to either the importing or exporting country and ‘requirements’ which are the importing country’s conditions.

The term ‘measure’ should however not be limited to controls of an NFCS but to any measures including treatment, processing, and testing as the scope of the document is intended to cover the full scope of equivalences in the food and feed sector.

Equivalence: The capacity of different NFCS, in whole or part, or different specified measures, to achieve the same objectives, **and related outcomes or levels of protection.**
For consistency reasons throughout the text, it should always read: objectives, and related outcomes or levels of protection.

Measure: a type of control **or treatment/processing or testing** designed to achieve NFCS objectives, and related [...].

As the intention is to cover all types of equivalences in the food and feed area, it should not be limited to controls.

Section 4: Principles

A: Equivalence

Countries should recognize that different measures, NFCS, or relevant part of NFCS although structured differently, may achieve the same objectives, **and related outcomes or levels of protection.** and can therefore be recognized as equivalent.

For consistency reasons throughout the text, it should always read: objectives, and related outcomes or levels of protection.

F: Demonstration of Equivalence

Importing countries should accept the equivalence of the exporting country's specific measures where the exporting country objectively demonstrates their measures achieve the same objectives, **and related outcomes or levels of protection** as achieved by the importing country's measures.

For consistency reasons throughout the text, it should always read: objectives, and related outcomes or levels of protection.

Question 3: Is the now revised proposed wording supported?

It can be accepted if 'and the related outcomes or level of protection' is added.

Section 5: Initial discussions

Paragraph 10. [...]. The requirements for trade may relate to one or more additional controls **or treatments/processing or testing** that the exporting country may be required to implement but may also include additional processes (e.g. audits, approval, or border inspections) applied by the importing country.

As the intention is to cover all types of equivalences in the food and feed area, it should not be limited to controls.

Appropriateness of an equivalence process

Paragraph 12, 5th bullet point: whether a recognition of equivalence will likely facilitate trade, for example by resulting in cost or resource savings, ~~reduced duplication of~~ **avoidance of redundancy in** control activities [...].

Better language proposal.

Experience Knowledge and Confidence

Paragraph 15. Existing experience, knowledge and confidence may take the form of, for example:

- Previous assessments, audits, study ~~tours,~~ **and** technical visits or other related interactions;
- the prior history in food trade between the importing and exporting ~~countries~~ **country**;
- the level of cooperation that exists between the NFCS competent authorities of the importing and exporting ~~countries~~ **country**;

Better language proposal.

Outcome of initial discussions

Paragraph 18, 2nd bullet point. The exporting country may decide to adopt additional controls **or specific measures (treatments/processing or testing)** which more closely align with [...].

To have a broader scope of possible actions.

Section 6: Process steps

Paragraph 21. The request for consultations should also ask the importing country to describe in writing, **if appropriate,** the basis for its requirements

There should be flexibility for providing this information.

Paragraph 23. For further context and help the exporting country better tailor its case for recognition of equivalence, the importing country should also, **where appropriate,** describe with appropriate references, how its measures, [...].

There should be flexibility for providing this information.

Paragraph 27, 5th bullet point. How experience, knowledge and confidence ~~are to~~ **may** be used.

There should be flexibility as depending on the scope of the exercise, this parameter may not be relevant (e.g. testing methods).

Paragraph 36. Existing experience, knowledge, and confidence ~~can~~ **may** reduce both the potential scope and intensity of the assessment process.

There should be flexibility as depending on the scope of the exercise, this parameter may not be relevant.

Question 4: Do you agree with this assessment that separate sections are not needed?

No, it would be better if separate chapters were provided and that the differences between the two exercises were shown. The current text fits better for the systems equivalence exercises - but not for the measure equivalence exercises.

Question 4a: If not, what additional text do you propose to be included?

The current terminology is more focussed on controls of NFCS. This needs to be broadened to cover all possible equivalence exercises in the food and feed area such as treatment methods, processing, and testing, etc. For the systems equivalence exercises the decision criteria of knowledge, experience and confidence is more relevant whereas it is less or not for measure equivalences.

Section 7: Maintenance of equivalence recognitions

Paragraph 56. Where appropriate, the agreement / arrangement may also cover expectations with respect to the type and frequency of ~~any ongoing~~ audits. ~~Generally,~~ **Such** audits should ~~be mutually agreed and jointly undertaken and~~ reflect the principles and guidelines developed by CCFICS.

There should not be any other rules than for audits which are carried out on compliance basis to the importing country's requirements. The only difference between equivalence and compliance audits is that the auditing is done against the exporting country's rules which have been recognised equivalent, as clarified in paragraph 57. To require mutual agreement and joint undertaking of audits would restrain the right of the importing country to carry out audits in the exporting country.