

**EU reply to CL 2024/71-FICS**  
**Request for comments, at Step 3/4, on the Draft Guidelines on the**  
**Prevention and Control of Food Fraud**

*Mixed Competence*  
*European Union Vote*

The European Union and its Member States (EUMS) appreciate the active participation of Codex members in the work of the EWG on food fraud.

The EUMS have the following comments on the proposed draft guidelines as presented in Appendix I of document CX/FICS 24/27/5:

**Section 1: Preamble / Introduction**

**Paragraph 3:**

Government oversight and good manufacturing practices by food business operators (FBOs) are important to protect public health, to limit the opportunity for food fraud and to maintain consumer confidence in the ~~safety, authenticity, integrity~~ **(e.g. safety, quality, authenticity)** **and** suitability ~~and quality~~ of food.

**Rationale:**

The wording is not in line with the definition given in Section 3. According to the definition in section 3, food safety, quality and - in our opinion also authenticity - are part of food integrity.

**Question 1:**

**Should 6bis be retained?**

The EUMS agree to retain 6bis.

**Rationale:**

Encouraging that an anti-food fraud culture is embedded into FBOs food safety management systems and national food controls systems contributes to the supply of safe and authentic products.

**Question 2:**

**In paragraph 7, should the addition of “that may impact human food safety” be retained?**

The EUMS do not agree with the addition of “that may impact human food safety.”

**Rationale:**

Finishing the sentence with those words could be misinterpreted e.g., that fraud that does not impact food safety is acceptable. As stated in paragraph 3, ‘fraud’ does not only touch on safety but also on authenticity, integrity, suitability, and quality of food.

Section 1, para 2 states: “Food fraud incidents can present risk to public health and can result in economic loss for consumers and other stakeholders, disruption in trade, reputational damage, and unfair economic advantages.”

Further, it would be redundant as the idea has been previously captured in the text of the same paragraph: “to help protect the health of consumers”, and to ensure fair practices in food trade.

**Question 3:**

**What, if anything, should be explicitly stated with respect to Geographical Indications (GIs)? This issue is currently in Footnote 3 as bracketed text. Exchanges on this question should be supported by information from the CAC Chairperson and the Codex secretariat.**

The EUMS are against the inclusion of this footnote. Nothing should be stated in this respect.

**Rationale:**

- The scope of the Codex Alimentarius Commission should not be defined within or spread across its various standards.
- Any Codex standard should be standalone text and only relate to the scope of the standard in question and not that of Codex i.e. the statutes of the Codex Alimentarius Commission.
- The aim of section 2 is to explain what is within the scope of the document; therefore, there is no need to state what is not within the scope. Such an approach could result in an endless accumulation of topics and might dilute the effectiveness of the standard, making it harder to understand its main purpose.
- GIs are a polarising issue amongst Codex Members, with varying perspectives on the matter. Consequently, it is up to each country to determine its stance on GIs based on its status of recognition. This is reflected in the comments received in the EWG. Codex Members with different perspectives on GIs agreed to remove the footnote.
- The draft guidance clearly states that its purpose is to support the application of other Codex texts. Consequently, there is no need to exclude aspects that would allegedly be outside the scope of Codex.
- Whilst food safety is of the utmost importance, this is not the only concern when it comes to food fraud prevention. Other issues, as described in the preamble, are also part of it.

**Question 4:**

**Should 7bis be retained?**

The EUMS do not agree with the inclusion of 7bis.

**Rationale:**

The aim is to explain what is in the scope of the document; therefore, there is no need to state what is not in the scope.

### Section 3: Definitions

**General comment:** In the iTeh prEN 17972:2023 standard definitions are given for “food fraud”, “authentic”, “addition”, “substitution” and “dilution”.

#### **Food fraud:**

Any deliberate practice intended to deceive others (**consumers, FBOs**) in regard to the ~~prescribed specifications or~~ expected characteristics of food (**including e.g. expected compliance with food law and trade specifications**) to gain an unfair economic advantage.

#### **Rationale:**

- The addition of “(consumers, FBOs)” is more concrete and facilitates the understanding of the definition.
- The wording “prescribed specifications” is unclear. The wording “prescribed specifications or expected characteristics of food” is not correct, since the compliance with specifications is part of the expected characteristics of food.
- The wording “food law” (including compositional and other requirements) and further trade specifications is clearer. The wording “including e.g.” allows further standards to be considered.

#### **Food Integrity:**

The status of a food product in which it is not altered or modified from its expected characteristics, including food safety, quality, composition, ~~and~~ nutritional properties **and authenticity**.

#### **Rationale:**

Food authenticity is part of Food Integrity.

To understand the difference between food integrity and food authenticity the following example could be included in the guideline:

“A fruit juice concentrate was mixed with contaminated water. The product is correctly labelled (“from concentrate”). It is therefore authentic, but does not fulfil food integrity, as it is not safe.”

### Section 4: Types of food fraud

**Addition:** **Intentionally A**adding an undeclared substance to a food product that would not ordinarily be present, or present in that quantity, in the food.

#### **Rationale:**

The deliberate action is crucial for food fraud. This wording (“intentionally adding”) is also in line with prEN 1792:2023. Unintentional addition (contamination) may happen during the manufacturing process and is not considered food fraud.

**Substitution:** **Intentionally R**eplacing an ingredient, in whole or in part of a food product with another ingredient, in whole or in part of a product of lower value without declaring it.

#### **Rationale:**

The deliberate action is crucial for food fraud. This wording (“intentionally replacing”) is also in line with prEN 1792:2023. Unintentional substitution (e.g. oxidation of a compound) may happen during the manufacturing process and is not considered as food fraud.

**Dilution:** **Intentionally** adding a **liquid ingredient of lower value material** to make another ingredient present at a lower concentration than represented **without declaring it, e.g. addition of water to milk.**

**Rationale:**

The deliberate action is crucial for food fraud.

Dilution refers to liquids, otherwise it falls under the category of addition.

**Sections 5-8:**

Sections 5-8 should be replaced by the following Sections:

Section 5: Principles

Section 6: Responsibilities and Activities of Competent Authorities

Section 7: Responsibilities and Activities of FBOs

**Rationale:**

The structure is not clear and shows redundancies. Section 8 “Cooperation, collaboration and exchange of information between competent authorities” and parts of Section 6 “Roles and Responsibilities” belong to Section 7 “Relevant Activities for Competent Authorities”.

The tasks of competent authorities and FBOs should be divided in separate Sections.

**Question 5:**

- a. **Regarding Section 5 “Principles”, can the text of this Section be revised to better enhance the flow and alignment of the document as a whole? During the EWG process, one member questioned how the principles looked after the last revision. Is the Committee in agreement with the two principles currently articulated in Section 5?**

Paragraph 8 seems to be redundant with principle 1. In essence, it says that “prevention and control of food fraud should be based on control and prevention of food fraud”.

Since the concepts listed on paragraph 8 are already captured in principles 1 and 2, the content does not really change if paragraph 8 is deleted.

- b. **Under Principle 1, specifically, which phrase in square brackets should be retained? Or should both be retained?**

The EUMS favor that both expressions are kept.

**Rationale:**

The expression "integrity of the food chain" includes the dimension of disruption to the food chain that fraud involves and its harmful impact on all actors, such as FBOs. This is not fully reflected by the single expression “fair trade practices”.

**Section 5: Principles**

**Paragraph 8.**

Prevention, detection, mitigation, and control of food fraud should be based on the following principles:

Principle 1: **Proportionality of Control and Prevention of Food Fraud Measures**  
NFCS can reduce the risk of food fraud by having measures, proportionate to the level of risk, in place to prevent, detect, mitigate, and control food fraud\*, including surveillance and monitoring activities in order to protect consumers and [the integrity of the food supply chain] [fair trade practices]. **Also, FBOs can reduce the risk of food fraud by having measures in place (alternative: “by taking reasonable precautions”) to prevent, detect, mitigate, and control food fraud\*.**

**\* Cases with only a suspected intentional action, in which the deliberate action has not yet been proven, should also be taken into account.**

Principle 2: Coordination, Cooperation, and Collaboration **Between of the** Competent Authorities

Coordinated cooperation and collaboration between Competent Authorities within or between countries **as well as with industry** can help prevent, detect, mitigate, and control food fraud.

**Rationale:**

- **Inclusion of FBOs:** The principles should not only refer to NFCS but also to FBOs. According to Section 6, paragraph 10, FBOs also have responsibilities to prevent food fraud.
- **Inclusion of the footnote:**
  - The deliberate action is difficult to prove and often takes a long time, especially if the case is decided in court.
  - The proposed wording “suspected” is in line with EU Regulation.

**Section 6: Roles and Responsibilities**

**Paragraph 9**

9 c. and d. should be merged into only one sub-item.

Proposal: **“Communicate, coordinate and collaborate with other competent authorities, industry, academia and other government authorities and stakeholders, as needed.”**

**Rationale:**

Overlapping contents, the difference is not clear.

**Paragraph 10**

Point 10 (a) to be deleted.

**Rationale:**

This is a matter of course that does not need to be mentioned in the guideline. Furthermore, the preceding expression “as appropriate” limits this requirement. It is not acceptable.

**Question 6:**

**Commenters pointed out redundancies between sub-paragraphs ‘b. bis’ and ‘e’. Should one of the sub-paragraphs be deleted?**

The EUMS recommend deletion.

**Rationale:**

There is no added value as b. bis is already covered by b, c and e.

For completeness, paragraph e could be amended as follows:

Take the reasonable precautions to prevent, detect, mitigate, and control food fraud **to secure the safety and quality of food products**, including processes in place for rapid removal of affected product from the market.

## Section 7: Relevant Activities for Competent Authorities

### Paragraph 11 (a) should be reviewed as follows:

Reviewing their NFCS and determine whether their system has an adequate regulatory and legislative framework (laws, regulations, guidance) and appropriate policies and procedures to monitor, prevent, detect, control, and respond to food fraud incidents and strengthen fair trade. Such policies could include legal requirements, including sanctions, and responsibilities of the FBOs related to food integrity **and authenticity**.

#### **Rationale:**

As per definitions in section 3, food integrity also covers food authenticity.

### Paragraph 11 (d) should be reviewed as follows:

Establishing surveillance activities to detect food fraud. These activities could be conducted on a routine basis ~~or~~ **and, as appropriate**, in response to specific risk that has been identified.

#### **Rationale:**

Controls on a routine basis are required in any case.

Also, competent authorities shall perform official controls regularly, with appropriate frequencies determined on a risk basis, to identify possible intentional violations of the rules.

### Paragraph 11 (e) should be deleted:

~~Providing practical guidance to FBOs and other stakeholders on how to address food fraud. Such guidance could include resources and access to tools on how to develop procedures to prevent, detect, mitigate, and control food fraud.~~

#### **Rationale:**

It is not the task of the Competent Authorities to provide this guidance, this is up to the FBOs themselves. Certain standards already include a chapter “food fraud” and can be of help – like for example the IFS standard that is used for the audits of companies.

### Question 7:

**A member of the EWG suggested the inclusion of Para. 15 ter. Should this new para. be included?**

The EUMS recommend that 15 ter is not included.

#### **Rationale:**

These ideas have already been covered. In addition, the guidance does not have to suggest what technologies or tools are to be used. For the purpose of collaboration, it is for the different competent authorities to decide about the most appropriate approach on a case-by-case basis.

Collaboration on AI tools and the like is not really related to Cooperation, collaboration, and exchange of information between competent authorities. Rather, it is a development of NFCS for early warning system and fraud response.