

European Union comments on
Agenda Item 8
Discussion Paper on "Future Strategies for CCFA"
(Codex document CX/FA 18/50/13)

Mixed Competence.

European Union Vote.

The European Union and its Member States (EUMS) thank Australia, Canada, China, Iran and the United States for having prepared, in consultation with the Codex and the JECFA secretariats, a Discussion Paper on "future strategies for CCFA" and are pleased to submit the following comments.

General comments

The EUMS support the launch of this Discussion Paper encompassing the strategic reflections on the work of the Codex Committee on Food Additives (CCFA) with a view to developing a "one CCFA approach". With this aim in mind, this Discussion Paper, as a first document has a high level of ambition and captures all of the activities of the CCFA. The paper also presents the various challenges and barriers hindering the advancement of CCFA's work which are associated with significantly different level of complexities. It is therefore noted that the role of the Discussion Paper is to outline a strategy for the work of CCFA and not to provide solutions, as further steps will be needed to define subsequent works¹. The EUMS are thus looking forward to the upcoming 50th meeting of CCFA which will facilitate the opportunity for further discussions on the next steps to be taken for each of the areas outlined in the document. This will enable a comprehensive, inclusive and transparent analysis of each of the areas concerned and will enable CCFA to investigate possible ways to address the various challenges faced by the Committee.

In order to make substantial progress on these challenges, most of which have been long-standing issues, the processes associated with each issue should be framed in a well-defined way thus enabling the complexity of the issues to be addressed in an appropriate manner. It may also be necessary to define priorities within the areas under consideration. The comments provided hereunder have been prepared to contribute to this objective.

I. General Standard for Food Additives (GFSA)

Principles and Procedures for Reviewing the Provisions Currently in the Step Process

The EUMS wish to recall their comments provided previously within the framework of the pre-consultation on this topic:

1. The EU notes the request for more guidance on how to state technological justification when completing the template for new proposals (see REP17/FA para. 135 (iii)). In order to better use the Committee resources (not to waste time on provisions for which no adequate information was provided) would it not be appropriate to develop guidance also for other entries of the template for new provisions (e.g. what appropriate information should be provided on exposure assessment, misleading the consumer etc.)?

¹ 1 REP 17/FA, para. 140

2. How can it be ensured that the GSFA provisions remain updated once the work on the standard has been completed - taking into account e.g. developments in food additive uses, evolution of risk assessment approaches and changes in consumption patterns that might have implications on exposure? Is there a need to put in place specific mechanisms for this purpose?

The EUMS are of the opinion that these questions, which are related to key aspects of safety assessment and risk management should be taken into account while considering a possible revision of the current process for the adoption of provisions in the GSFA. It is noted that the need to obtain sufficient information on the justification of use is also identified in this Discussion Paper in the context of the information that is needed to support requests for inclusion on the Priority List².

The EUMS note that the analysis of the key issues provided in the Discussion Paper does not identify a problem of procedure *per se*. The EUMS are of the view that the agenda of the EWG and the PWG on the GSFA should be determined by the CCFA. This is a key element to ensure proper management of CCFA's work and will enable priorities to be set if required. During the discussions on the agenda of the EWG, sufficient time should be foreseen to enable exchange of views and reach consensus on the work that should be made on historical provisions and on the work that should be devoted to new provisions.

The EUMS also note that the procedure described in para 6 does not include a consultation of the appropriate Codex commodity committee for opinion on technological need which should be done, where relevant, according to the applicable procedure described in the Procedural Manual (see 25th Edition of the Procedural Manual, p. 70).

Colour and Sweeteners Provisions/Provisions with Note 161

The EUMS wish to recall its comments provided in the framework of the pre-consultation on this topic:

Sweeteners

3. Is the outcome of the EWG on sweeteners prepared for CCFA47 a good basis to resume the work on these substances or should the work resume on another basis? If the work would resume on another basis, what would be the key elements to consider?

Colours

4. What are the key elements to consider for resuming CCFA work on colours? Are there grounds to divide colours into different categories that would lead to different discussions? For example, are there different risk management approaches for natural and synthetic colours considering that no such concept as "natural" is recognised for the substances to be included in the GSFA?

Analysis of key issues

The EUMS recognise the complexity of this topic and are of the view that a transparent and inclusive process should be put in place to proceed with a thorough analysis of the key issues associated with this topic. This will enable the consideration of possible options to facilitate the process of adoption of provisions for colours and sweeteners in the GSFA in a timely manner. In order to achieve this objective, there may be merits in identifying sub-topics that could be addressed either independently or in a phased manner.

² CX/FA 18/50/13 para. 47.

With respect to the analysis of the key issues, the EUMS would like to highlight that the adoption of note 161 had enabled the Committee to reach consensus on the adoption of a significant number of provisions for colours and sweeteners which would otherwise not have been included in the GSFA. As such, the note has thus contributed to the inclusion of GSFA provisions while acknowledging that, due to lack of consensus on risk management aspects, these provisions are subject to restrictions in line with national legislation conforming to the preamble of the GSFA. It is noteworthy that references on the role of national legislation or national authorities are not unique to the GSFA and are also included, for example, in several standards developed by the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) or the Codex Committee on Processed Fruits and Vegetables (CCPFV). It is acknowledged that the use of note 161 did cease to contribute to the consensus building for the inclusion of new provisions on colours and sweeteners in the GSFA. An alternative approach which would enable the adoption of provisions by consensus should be developed.

With a view to pursuing discussions on this topic, the EUMS note that the preamble is an integral and critical part of the GSFA and that it is under the auspices of this preamble that all the provisions have been adopted. Any possible modification to the preamble would thus need a thorough analysis in terms of its impact on the value of the GSFA as such and on any potential impact this may have on existing provisions.

Exploring alternatives to the use of note 161

Detailed exchanges on the rationale underlying the use of note 161 would provide the grounds by which alternatives to this note could be explored.

The rationales for using note 161 might be different for sweeteners versus colours. The Discussion paper links Note 161 with “advantage” and “misleading” only. It is however acknowledged that the use of note 161 is associated with a range of risk management considerations related to Section 3.2 of the Preamble including “technological function” and “health risk to consumers”. In addition, the risk management considerations also encompass policies on nutrition or potential risks of fraud.

It is also noted that the criteria of "advantage" and "not misleading the consumer" are used for other technological functions without drastically preventing the adoption of provisions by consensus. Discussions on alternatives to this note would thus be facilitated if the specificities of the risk management criteria associated with sweeteners and colours are specifically considered.

Regarding sweeteners the EUMS consider that their use is in line with Section 3.2 of the GSFA Preamble, if it is for one of the following purposes:

- (a) replacing sugars for the production of energy-reduced food, non-cariogenic food or food with no added sugars; or
- (b) replacing sugars where this permits an increase in the shelf-life of the food; or
- (c) producing food intended for particular nutritional uses.

More generally in the EUMS' view the decisions on the appropriate use of sweeteners are an integral part of the measures that may be taken to promote healthy diets. The GSFA as an international standard and the development of national policies should thus be mutually supportive and contribute to the WHO Global Strategy on Diet, Physical activity and Health³.

Regarding food colours the EUMS consider that their use is in line with Section 3.2 of the GSFA Preamble if it is for one of the following purposes:

³ This strategy was endorsed by the Resolution WHA57.17

- (a) to restore the original appearance of food of which the colour has been affected by processing, storage, packaging and distribution; or
- (b) to make food more visually appealing; or
- (c) to give colour to food otherwise colourless.

Furthermore, the use of food colours must always comply with the general condition that they do not mislead the consumer. For example, the use of colours should not give the impression that it contains ingredients that have never been added.

The EUMS are of the view that further discussions should consider how these aspects related to sweeteners and food colours could be reflected in the process of adoption of GSFA provisions and/or in the GSFA, including through appropriate footnote(s). It is noted that extensive exchange of views on this matter did already take place in preparation for the 46th and 47th sessions of the CCFA and that this work provides valuable information to consider for any future discussions on sweeteners⁴.

Resuming the examination of the GSFA provisions on sweeteners and colours: consideration of pending provisions

The EUMS are of the view that, in addition to the work that could be pursued in the future on alternatives to note 161, it would be worthwhile considering whether progress on provisions in the step process could be subject to consensus. In this respect, the report of the eWG led by UK on the application of alternative notes to provisions for sweeteners to replace note 1615 includes proposals to replace note 161 with other specific notes that are used in the GSFA that could be relevant.

Conclusion

The EUMS are of the opinion that an inclusive and transparent process should be put in place to carry out an analysis of the key issues including the different rationales underlying the use of note 161, explore alternatives to note 161, and consider the examination of provisions for sweeteners and colours.

II. Alignment of Food additives Provisions in Commodity Standards and GSFA

The EUMS support reflections aimed at resource-efficient procedures for the alignment of the GSFA and corresponding commodity standards provided that the quality of the work is maintained.

The EUMS agree with the analysis provided in the Discussion Paper and identify option 3 as the most realistic option provided in recommendation 3 since the expertise of the Commodity Committees on the technological use is essential in the alignment process. The other options might be further considered on a case-by-case basis provided that adequate conditions are met. The more active involvement of other countries as either "normal" members of the WG or additional vice-chairs should be explored provided that countries do volunteer. The possible contribution of industry associations should only be considered if their contribution is provided in agreement with their status of observer and thus with the appropriate involvement of Codex members.

III. International Numbering System (INS)

The EUMS look forward to further discussing these recommendations during the meeting of the Committee.

⁴⁴ See CX/FA 14/46/14 and CX15/47/13

⁵ CX15/47/13

IV. JECFA evaluation and re-evaluation of food additives

Prioritization of requests to JECFA - Requests for substances that are not included in the GSFA

The EUMS wish to recall its comments provided in the framework of the pre-consultation on this topic:

5. The use of enzymes as processing aids is on increase and more Codex members take measures on their use. This may increasingly result in food trade issues. How can CCFA address these developments to ensure both the protection of public health and fair trade practices?

The EUMS are of the view that recommendation 6 and the underlying analysis of key issues and considerations are a good starting basis for the prioritisation of requests to JECFA. Re-evaluations of additives based on an identified safety concern should in particular always be treated with the highest priority.

Further discussions should aim at a further clarification of the proposal and a refinement of the proposal with the view to put in place mechanisms allowing a transparent, predictable and global management of all the requests submitted to JECFA. It should in particular be clarified how the work on requests that would fall under lower priority categories would be considered in order to ensure that these requests are also addressed within an appropriate time period. For example, the trade impact due to a possible modification of the specifications should not be underestimated and should be duly taken into consideration. The increasing needs and concerns of developing countries should also be taken into account. These mechanisms should enable the Committee to establish priorities while providing the necessary flexibility to JECFA to organise its work.

Information supporting requests for inclusion on the Priority List

In line with the comments submitted during the pre-consultation (see above the comment recalled under the point "Principles and Procedures for Reviewing the Provisions Currently in the Step Process"), the EUMS agree that further steps should be taken in order to ensure that more detailed information is included in the requests for inclusion of a substance on the Priority List. The EUMS are thus in favour of developing further guidance regarding the submission of information on the technological use but also for other aspects such as exposure assessment and misleading the consumer. This information is relevant for both the CCFA and JECFA. Ensuring that only eligible requests accompanied by all the necessary information is entered into the priority list is an action that has the potential to significantly increase the efficiency of the work of CCFA and JECFA.

Maintenance re-evaluations of additives in GSFA

Appropriate mechanisms should be put in place to ensure that the GSFA remains updated. As outlined in Section IV and recommendation 6 of the Discussion Paper, re-evaluations of food additives should be treated with the highest priority if a safety concern is identified.

V. Processing Aids

As indicated under Section IV, the handling of pending requests relating to enzymes, including processing aids, should receive due attention of CCFA and JECFA.

The EUMS agree that further work in this area such as a revision of the existing guidelines should only be considered on the basis of a proposal to revise a standard and in accordance with the normal Codex procedures.

The Inventory of Substances Used in Processing Aids (IPA) is not a Codex tool. Its update and maintenance are thus independent from the activities of the Committee and do not need to be considered in the framework of the management of CCFA work.

VI. Prioritisation of CCFA future work

The EUMS are in favour of having further reflections on the prioritisation of CCFA work. Such reflections should take place in accordance with the existing Codex rules of procedures and in particular the procedures for the elaboration of Codex Standards and related texts. With respect to the development or the revision of guidelines, it should in particular be considered whether the criteria already included in the critical review to undertake new work or to revise a standard are sufficient. For example, the availability of the resources to undertake a given topic depends on the commitments of the Codex members and should thus be evaluated on a case-by-case basis.

The opportunity for the CCFA to proceed with a revision of the procedures for the maintenance of the GFSA or the INS as foreseen in the Codex rules of procedures will depend on the evolution of the discussion on these two topics that are covered in previous sections of the Discussion Paper.