

**Codex Alimentarius, CCFIC – Draft of FF EWG document Dec 14, 2023 for Comments
Submitted to the US Codex Delegation by Feb 20, 2023.**

///

**PROPOSED DRAFT GUIDELINES ON THE PREVENTION AND CONTROL OF FOOD FRAUD (at
Step 2)**

Section 1: Preamble / Introduction

1. The increasing complexity of food systems and global trade in food makes food supply chains more vulnerable to food fraud. Protecting the global food supply from intentional actions that undermine protection of public health and upholding fair practices in food trade are common goals for all stakeholders.
2. 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.
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, suitability¹, and quality of food.
4. Food fraud can be prevented or minimized using the existing controls and mitigation measures available to countries through their National Food Control Systems (NFCS) or by adopting new measures, if necessary.
5. The prevention and control of food fraud is a shared responsibility, with FBOs responsible for producing safe and suitable food, and for presenting it in a manner so as not to deceive consumers.
6. Competent authorities provide regulatory oversight and have an important role in increasing awareness of food fraud prevention by building partnerships and collaborating with relevant stakeholders to detect, prevent, mitigate, and control food fraud.
8. Work in the area of food fraud is widespread in a range of international organizations. Countries may wish to consider work from these and other organizations, as appropriate, when developing tools and strategies to detect, prevent, mitigate, and control food fraud.

Section 2: Purpose / Scope

9. The purpose is to provide guidance to competent authorities and FBOs on the detection, prevention, mitigation, and control of food fraud to help protect the health of consumers, and to ensure fair practices in food trade [, including feed for food producing animals]. Aspects related to food fraud are already addressed through many existing Codex texts; this guidance is intended to support or supplement existing Codex texts by providing additional guidance specific to food fraud that can be considered within NFCS².
- 9bis. [the investigation and prosecution of food fraud offenses are outside the scope of this guideline and need to be handled by countries under their respective laws.]

¹ Food suitability is defined in CXC 1-1969 as “Assurance that food is acceptable for human consumption according to its intended use”.

² [Issues of intellectual property, such as geographic indicators and related labeling restrictions which do not represent a risk to public health and are beyond the scope of Codex are not addressed within this guideline.]

Section 3: Definitions

For the purposes of this document, the following definitions apply:

Food Fraud: Any deliberate action to deceive others in regard to the prescribed specifications or expected characteristics of food to gain an unfair economic advantage.

Food Integrity: The status of a food product in which it is not altered or modified with respect to expected characteristics, including food safety, quality, composition and nutritional makeup.

Food authenticity: Conformity between the food product characteristics and the corresponding information provided through food product labelling or other information associated with food trade.

Section 4: Types of food fraud:

Types of food fraud can include:

Addition: Adding an undeclared substance to food products that would not ordinarily be present, or present in that quantity, in the food.

Substitution: Replacing 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.

Dilution: Adding a material to make another ingredient present at a lower concentration than represented.

Counterfeiting: Making an imitation of food products with the intention to deceive or defraud for the purpose of economic gain.

Misrepresentation: Marketing or labelling food products in a manner that is false, misleading, or deceptive.

Concealment: Hiding or not disclosing information on the safety, suitability, or low quality of food ingredients or food products.

Section 5: Principles

10. Detection, mitigation, prevention, and control of food fraud should be based on the following principles:

[Principle 1:

- NFCS [should have OR can] reduce the risk of food fraud by having proportionate measures in place to detect, prevent, mitigate, and control food fraud, including surveillance and monitoring activities in order to protect consumers and the integrity of the food supply chain.]

Principle 4: Coordination, Cooperation, and Collaboration Between Competent Authorities

- Coordinated cooperation and collaboration between Competent authorities within or between countries can help detect, prevent, mitigate, and control food fraud.

Section 6: Roles and Responsibilities

11. A relevant competent authority has the role and responsibility to, as appropriate to risk and the circumstances existing in their territories or associated with imports:

- a. Establish or maintain legal structures and requirements to detect, prevent, mitigate, and control food fraud.

DRAFT – 12/14/2023

12. The competent authorities have the role and responsibility to, as appropriate:
 - a. Establish or maintain oversight programs to detect, prevent, mitigate, and control food fraud.
 - b. Develop or maintain mechanisms/platforms to better detect food fraud.
 - c. Build partnerships and collaborations with other governments, industry, academia, and other stakeholders to combat food fraud.
 - d. Communicate with stakeholders and other government authorities, as needed.
 - e. Notify any potentially impacted countries when incidents of food fraud are identified or suspected.
13. FBOs have the role and responsibility to, as appropriate:
 - a. Understand their supply chain and which products/ingredients/packaging in it may be susceptible to food fraud.
 - b. [Have measures in place to mitigate the risk that the food products and ingredients are not authentic and ensure that the nature, safety, quality, and substance are accurately represented.]
 - c. Represent food for sale in a manner that does not deceive or mislead consumers.
 - d. Inform the competent authority when they detect or suspect food fraud.
 - e. Take reasonable precautions to detect, prevent, mitigate, and control food fraud.

Section 7: Relevant Activities for Competent Authorities

14. Measures to detect, prevent, mitigate, and control food fraud incorporate aspects of food safety and quality, consumer protection, and ensuring fair practices in food trade, and so may be addressed within the structure of a NFCS.
15. Competent authorities may consider reviewing their NFCS and determine whether their system has an adequate [legal] [legislative] framework and appropriate policies and procedures to monitor, detect, prevent, 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.
16. Competent authorities may consider establishing procedures to receive and evaluate reports of food fraud and determine appropriate follow-up, consistent with the food safety risk identified and national priorities.
17. Policies, procedures, and regulatory requirements related to food fraud prevention and control should be transparent and risk-based.
18. Competent authorities should consider including risk-based planning of measures to prevent food fraud.
19. Competent authorities may consider establishing surveillance activities to detect food fraud. These activities could be conducted on a routine basis or in response to specific risk that has been identified.
20. Competent authorities may consider 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 detect, prevent, mitigate, and control food fraud.
21. Competent authorities may consider establishing appropriately secure communication channels with other governments, FBOs, academia, and other stakeholders to obtain information about situations involving food fraud and to share relevant knowledge, experience, and tools for combatting food fraud, such as food standards and analytical methods.

DRAFT – 12/14/2023

- 21bis. Competent authorities should consider developing tools to protect persons acting as “whistle blowers” reporting such incidents.
22. If there is a potential for a food fraud incident to have an impact on food safety, the competent authority detecting the incident should immediately alert the relevant competent authority within their government if it is not the same organization.
23. Competent authorities may consider establishing communication mechanisms for timely reporting to stakeholders about incidents involving food fraud, as appropriate.

Section 8: [Cooperation] [Collaboration] and exchange of information between competent authorities

24. Competent authorities should cooperate [collaborate] and exchange information with the relevant competent authorities in situations where food fraud is suspected or identified. This exchange of information could be expanded when there is awareness that fraudulent product poses a food safety risk and has been distributed to other countries.
25. The exchange of information should be made as early as possible, recognizing that the initial information may often be incomplete and more detailed information will be provided as it becomes available. Identification of key elements, including relevant information in *CXG 19-1995 Annex*, that contribute to international harmonization and collaboration on the prevention and control of food fraud are essential.
- 25 bis. Information exchanged should be sufficient to allow competent authorities to evaluate the food fraud incident and mitigate its impact, especially with regard to risk to consumers, without jeopardizing ongoing investigations.
26. Competent authorities may benefit from establishing appropriate information exchange routes with relevant enforcement bodies and agencies, including those responsible for dealing with criminality. In establishing such routes, competent authorities should give due consideration to information security around personal data, operationally sensitive material and also have in place systems to assure the integrity of any evidence gathered and/or shared.

Annex 1: Existing Codex Documents Addressing Food Fraud

[Note: it is proposed to remove this annex prior to finalizing the guideline]

The Committee’s comprehensive review of existing Codex texts illustrates that food fraud is already covered in a variety of Codex documents.

- The Codex *Code of Ethics for International Trade in Food Concessional and Food Aid Transactions* (CXC 20-1979)
- Food fraud as it pertains to improper, inaccurate, false, or misleading labelling is addressed in:
 - *General Standard for the Labelling of Pre-packaged Foods* (CXS 1-1985)
 - *General Standard for the Labelling of Food Additives when sold as such* (CXS 107-1981).
- *Principles and Guidelines for National Food Control Systems* (CXG 82-2013)
- *Principles for Traceability / Product Tracing as a Tool Within a Food Inspection and Certification System* (CXG 60-2006)
- *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38-2001)
- Principles and guidelines for the exchange of information between importing and exporting countries to support the trade in food (CXG 89-2016)
- *Guidelines for the Exchange of Information between Countries on Rejections of Imported Foods*

DRAFT – 12/14/2023

- (CXG 25-1997)
- *Principles and Guidelines for the Assessment and Use of Voluntary Third-party Assurance Programmes* (CXG 93-2021)
- *Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations*
 - (CXG 19-1995)

Annex 2: International Organizations Working in the Area of Food Fraud

[Note: it is proposed to remove this annex prior to finalizing the guideline]

- Food and Agriculture Organization of the United Nations (FAO)
- Global Food Safety Initiative (GFSI)
- Institute of Food Technologists-Global Food Traceability Center (GFTC/IFT)
- International Association for Food Protection—Food Fraud Professional Development Group (IAFP/PDG)
- International Life Sciences Institute (ILSI)
- The International Criminal Police Organization (INTERPOL)
- The United Nations Interregional Crime and Justice Research Institute (UNICRI).