FOOD ADULTERATION (PFA) ACT 1954

Though the subject Prevention of Food Adulteration is in the concurrent list of the constitution, in practice, the enforcement of the Act is done by the State/U.T Governments. In India, a three-tier system is in force for ensuring food quality and food safety. **They are:**

- Government of India
- State/UT Governments
- Local Bodies

The Central Government primarily plays an advisory role in its implementation besides carrying out various statutory functions/duties assigned to it under the various provisions of the Act. The Ministry of Health and Family Welfare is responsible for ensuring safe food to the consumers.

Role of Central Government / PFA Cell

The Prevention of Food and Adulteration Act is a Central legislation. The Rules and Standards framed under the Act are uniformly applicable throughout the country. Besides, framing of rules and standards, the following activities are also undertaken by the Ministry of Health and Family Welfare.

- To keep close liaison with states/local bodies for uniform implementation of food laws.
- To monitor the activities of states by collecting periodical reports on working of food laws, getting the reports of food poisoning cases and visiting the states from time to time.
- To arrange periodical training programme for Senior Officers/Inspectors/Analysts.
- To create consumers awareness about the programme by holding workshop/ exhibitions/seminars/training programmes and publishing pamphlets.
- To approve labels of proprietary food in the category of infant milk substitute and Infant food, so as to safeguard the health of infants.
- To coordinate with international bodies like ISO/FAO/WHO and Codex Alimentarius commission
- To carry out survey-cum-monitoring activities on food additives, (physical, chemical and microbiological) contaminants etc. .
- To give administrative/financial/technical support to four Central Food Laboratories situated in Kolkata, Ghaziabad, Mysore and Pune and providing technical guidance to the food laboratories set up by states/local Bodies.
- To hold activities connected with National Monitoring Agency vested with powers to decide policy issues on food fortification, preservations, irradiation etc.
- To formulate manual of sampling and method of analysis of food.
- To formulate training materials for Food Safety Systems (GHP, GMP, HACCP) etc

PFA act

PFA Act envisages the elimination/ prevention of adulteration of food, which is a menace to public health, and thus eradicates the social evil and ensures providing pure and wholesome food to the public.

The Preamble of the Act viz.

The term **"**Prevention of Adulteration of the Food" denotes the policy and object behind the Act. It discloses the primary intention of the legislature, and the provisions of the Act are the key to the mind of the legislature.

There are 25 sections in the Act. The Act passed by the Parliament was assented by the President on 29th September, 1954 and published as Act no. 37 of 1954 on 30th September, 1954 and came into force from 1st June, 1955 vide S.No. 1085 dated 9th May, 1955.

The Act was first extended to the whole of India except Jammu & Kashmir. It was, however, later extended to the state of Jammu & Kashmir with effect from 26th January, 1972 vide amendment no. 41 of 1971 and thus is applicable to the whole of India.

Kinds of Adulteration included in the Act

1. Substandard quality
2. Substitution by cheaper substance
3. Abstraction of any constituent of article
4. Preparation or storage in unsanitary conditions
5. Poisonous ingredients
6. Colouring agents and / or preservatives in excess of prescribed limits.
7. Quality or purity below the prescribed standards
8. If the constituents of the article are present in quantities which are not within prescribed limit.

Adulterated Food

(i) Milk not confirming to standard is adulterated (standard required fat and solid content 14%) but the milk contained fat 5.7% and solid 7.25% i.e. total 13%.
(ii) Excess content of fat than the prescribed level will also amount to adulteration.
(iii) The knowledge and awareness of the buyer is wholly immaterial as the object of the act is to protect the public.
(iv) Sale of wheat flour as pure when it contains some mixture of barely (the quantum of admixture is immaterial)
(v) The addition of water with milk is adulteration
(vi) Sale of mixed linseed and rapeseed oil amounts to sale of adulterated oil.
(vii) Insect infested: Living – (not for human consumption) Dead
(viii) Suji and maida samples containing large number of alive and dead insects or adulterated.
(ix) Pan masala is food – Tobacco comes under the definition of food.
(x) Country liquor – comes under the definition of food.
(i) Food made available in a hotel is food
(ii) Wheat flour kept in Dhaba for preparation of Chapatis for sale is food

Articles held as Food by Courts

1. Arhar Dal
2. Coconut oil
3. Country liquor
4. Fruits
5. Cota Haldi
6. Gram Flour
7. Groundnut oil
8. Gunja Oil
9. Gur
10. Ice Fruit
11. Jaggery
12. Kesari Dal
13. Mustard Oil
14. Tea Flour
15. Tea
16. Til Oil
17. Wines Liquors

What is Misbranded Food

An article is considered as misbranded :
1. If an article is an imitation of, or is substitute for another article of food;
2. If it is sold under the name of another article;
3. If the true character of the article is not indicated plainly and conspicuously on the label;
4. If it is sold by a name which belongs to another article of good;
5. Makes false claim for the article on the label or otherwise;

6. If the fact of an article beings damaged is concealed through colouring, polishing etc. ;
7. If the contents of each package are not conspicuously and correctly stated on the outside of the package.

FUNCTIONS / RESPONSIBILITIES OF VARIOUS AUTHORITIES

The Ministry for its implementation consists of 53 members- The composition is as follows:

a.	Director General Health Services (DGHS)	1 (Ex officio Chairman)
b.	Directors – Central Food Labs (CFL)	4
c.	Experts of Central Government	2
d.	Representative of Department of Food, Agriculture	7
	Commerce, Defence, Industry and Suppliers &	
	Railways	
e.	Each State (one representative)	28
f.	Union Territories	2
g.	Representative to represent Agricultural, Commercial	3
	& Industrial Interest	
h.	Consumers interests including one from hotel industry	5
i.	Indian Council of Medical Research	1
j.	Bureau of Indian Standards	1
	TOTAL	**54**

The tenure of a member is 3 years, except Chairman and Directors of CFL. The members can be renominated. The Committee may appoint as many sub-committees as it deems fit and non-CCFS members can be appointed to the Sub-committees.

The Committee is to advise the central and state governments on matters arising out of the administration of the Act. There are 9 sub-committees functioning at present: The details of such committees are given as under :

1. Sub- Committee on Food Laws and Legal advisory Committee
2. Sub - Committee on Food Labelling
3. Sub- Committee on Food Additives & Contaminants
4. Sub- Committee on Milk and Milk Products
5. Sub- Committee on Microbiological
6. Sub- Committee on Oil and Fats
7. Sub- Committee on Pesticide Residues
8. Sub- Committee on Nutrition Food for Special Dietary Uses for Infant, and
9. Sub- Committee on Methods of Analysis

The Committee has made bye-laws called “Procedure and Transaction of Business” with the approval of central government for its functioning. The Committee is a recommendatory body to the Central Government and the State Governments, regarding administration of the Act, setting standards/ specifications of various foodstuffs, use of additives and their maximum levels, fixation of maximum levels of contaminants (physical, chemical and microbiological), toxins, MRL of Pesticides, functioning of various regulatory authorities viz. Central, State and local bodies, labeling, licensing etc.

CENTRAL FOOD LABORATORIES

Section 4: This section provides for the establishment of Central Food Laboratories (CFL) At present there are four such labs: one each at (i) Kolkata & (ii) Ghaziabad (under Central Government), (iii) Public Health (PH), LAB, Pune and (iv) Central Food Technological Research Institute (CFTRI), Mysore, notified as CFL for the purposes of the Act.

CFL’s are the appellate laboratories for the following purposes:-

(i) for the analysis of samples received from courts under section 13 (2) (b) and issue certificates of analysis which supersedes the report of Public Analysts [(Section 13 (3)]. The jurisdiction of these labs for various areas are specified in table (1) of Rule 3 (2) of PFA Rules.
(ii) for the analysis of import products sent by the customs (Section 6) (2)]. The areas in respect of local areas assigned to various labs are provided in Table II of rule 3 (2) of PFA Rules.
(iii) for any other matter as considered necessary by Central Government [Section 4 (2)])

Section 5: This section provides for prohibition of imports which are in contravention of law.
Section 6: This section provides powers to Custom officers to detain imported foods prohibited under the law, and send samples to Central Food Laboratory. Custom officer solicits the assistance of Port Health Officers and food inspector for sampling purposes etc.
Section 7: This section prohibits the manufacture, sale or storage of adulterated foods.
Section 8 (Analysis of Foods): This section empowers **t**he Central Government/ State Governments to appoint **Public Analyst** having prescribed qualifications (rule 6). The primary task of public analysist is to analyse the samples sent by the food inspectors, consumer organizations or others as provided in the state rules (Section 24) on payment of fees or otherwise as provided in the state rules by the state governments.
The territorial jurisdictions of work of Public Analysts are prescribed in the State Rules.

ROLE OF FOOD INSPECTORS

Section 9/ 10 (Appointment and powers of Food Inspectors

The section 9 confers powers upon to the Central/ State Governments to appoint food inspectors having prescribed qualifications (Rule 8). The primary responsibility of food inspector is to draw the samples from the manufacturer's premises/ markets or other places under their jurisdiction as provided in the State rules for analysis by the Public Analyst.
The Food Inspector, with the approval of Local (Health) Authority [L(H)A]/ Food (Health) Authority [F(H)A] has the powers to prohibit the sale of an article of food, if it appears to be adulterated and to seize and carry away the seized stock or keep it in the custody of vendor under a bond {Section {10 (4)} and send part of the sample for analysis by the public analysists. The cost of the sample should be paid by the Food Inspector (10 (3).
In case the seized article is of perishable in nature and if the Local (health) Authority is satisfied that it is unfit for human consumption, the authority may destroy the same after giving notice to the vendor. [section 10 (4)].
The Food Inspector may seize the books of accounts which are useful and relevant for any investigation (to be returned later) with the approval of his immediate officer. [section 10 (6)] & 10 (7 A)].
Food Inspector is to call one or more witness while taking sample (Section 10(a) or in case where an article is seized (Section 10 (7).

Section 11 Procedure to be followed by Food Inspector

This section provides the procedure to be followed by the Food Inspector for drawing samples.
The procedure to be followed are as under :
a) Give notice in writing of his intention to have it analysed to the person from whom he has taken the sample and to the person, if any, whose name and addresses have been disclosed.
b) Divide the sample into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken.
c) If the person refuses to sign or put his thumb impression, the Food Inspector shall call upon one or more witnesses and take their signature or thumb impression, in liew of the signature or thumb impression of such person.
(i) send one part of the sample to the public analyst under intimation to the local authority.
(ii) send remaining two parts to the local (Health) authority for further legal action.
d) An article of food seized shall be produced before Magistrate as soon as possible, but in any in case, not later than 7 days after receipt of the report of the public analyst.
e) If an application is made to the Magistrate by the person from whom the food article has been seized, the Magistrate shall by order in writing direct the Food Inspector to produce the seized article before him within such time as may be specified in order.

Food Inspector is required to call one or more witness while taking sample if the vendor refuses to sign the wrapper or other documents as required under the Act/Rules (Section 11(1) (b) and Rules 16(c).The Food Inspector should pay the cost of the sample [section 10 (3)]

Section 12 (Power of Purchaser)

This section allows a purchaser or a recognized consumer organization to get the sample analysed by a Public Analyst on payment of fee and to receive the report of the analysis. The fee as prescribed by the State Government is refunded if the sample is adulterated.

Section 13 Report of Analyst: As per this section, the report of Public Analyst, prima facie forms the basis for further action by the authorities. The report is sent to Local Health Authority, who shall forward a copy of the report to the vendor and to the manufacturers/ distributors/ dealer who has supplied the material to the vendor under warranty (Section 14 A).

As per section 13(2) the court has power to call for the part of the sample from local (Health) Authority, if so desired by the manufacturer/distributor/dealer for getting it analyzed by Central Food Laboratory and after ascertaining the intactness of the seals, send the same to Central Food Laboratory for final opinion which supersedes the public analyst report [Section 13(3)].

Section 14 (Issue of Warranty)

This section provides that a manufacturer, distributor or dealer has to give a warranty in writing to the vendor, which stands as a defence to vendor in case the same is declared adulterated (Section 19).A cash memo/ bill is considered as a warranty.

Section 15 Report of Food Poisoning

As per this section, the Central/ State governments may require medical practitioners to report cases of food poisoning in their areas of jurisdiction.

The section 16 deals with the Penalties as detailed below:

Offences	**Penalties**
• **Adulterated** but not injurious and not within prescribed specifications, • misbranded; • non-injurious adulterant, • preventing a Food Inspector from drawing sampling or in exercise of his duties, • use of report of public analyst/ CFL for advertisement, providing false warranty etc.	• Minimum imprisonment of 6 months, extending to 3 years and fine not less than Rs 1,000/-
• **Primary food adulterated** by human agency (but of non-injurious nature) or improper labelling, licensing condition etc.	• Imprisonment of not less than 3 months, extending to 2 years and fine not less than Rs 500/-
• Adulterated, injurious nature (clause (e) to (L) of Section (2) (ia)	• Imprisonment not less than 1 year and extending to 6 years and fine of not less than Rs 2,000/-
• In case of death/ grievous injury	• Imprisonment of not less than 3 years, extending to life and fine not less than Rs 5,000/-

• Tampering commodity kept under the custody of vendor vide Section 10 (4)	• Imprisonment of not less than 6 months, extending to 2 years and fine not less than Rs 1,000/- .
• Tampering commodity kept under the custody of vender and of injurious nature/ likely to cause death	• Imprisonment of not less than 3 years, extending to life and fine not less than Rs 5,000/-
• Not providing warranty (Section 14) or not disclosing name of manufacturer (Section 14A)	• Imprisonment upto 6 months and fine not less than Rs 5,00/-
• Repeat of offence	• Cancellation of license
• Subsequent offence	• Offenders name and place to be published

Section 16A: Summary Trials: This section provides summary trials by Judicial Magistrates of 1st class or Metropolitan Magistrate who can pass maximum imprisonment of 1 year. Magistrate has powers to try cases other than summary trials if he is of the opinion that the punishment higher than 1 year is to be passed.

Section 17: Nomination by Company: As per this section, the companies can nominate a person responsible for the business of the company and inform Local Health Authority of such nominations with the written consent of the nominee. The person so nominated is to inform Local Health Authority for canceling his nomination when he leaves the company or otherwise under intimation to the company.The nominee stands responsible for any offence committed by the Company.

Section 18: Forfeiture: As per this section the articles of food, contravening the law, can be forfeited by the concerned authorities. However, the court can allow reprocessing of such food articles under the supervision of some officer if the same can be made to confirm to the standards prescribed under law.

Section 19: A warranty under section 14 from a licensed vendor stands as a defence in as a case of prosecution, as per section 19.

Section 20: Cognizance of offence: This section stipulates that a prosecution can be launched with the written consent of a person authorized by Central/ State Government except in case of warranty (Section 14/ 14A). However, a purchaser (Section 12) can directly make a complaint to the court with a copy of the report of Public Analyst. A purchaser or recognized consumer associations (Section 12) may also institute a prosecution in a court with copy of the report of the Public Analyst along with the complaint.

Section 20A: Impleading Manufacturer: As per section 20 A, a manufacturer, distributor or dealer can be impleaded on the evidence adduced before the court if such person is also connected with the commission of the offence .

Section 21: Power of Magistrate : The section 21 clearly stipulates that only the 1st class Magistrate or Metropolitan Magistrate can pass any sentence under this Act except life imprisonment or more than 6 years imprisonment.

Section 22: Protection to Government Officers i**f action is taken in good faith:** As per this section, legal proceedings cant not be initiated against government officers , if the action is taken in food faith.

What is done in "Good Faith" : The term " Good Faith" is defined in the General Clauses Act (X of 1897) under section 3(22). As per this section " a thing shall be deemed to be done in "good faith" where it is in fact done honestly, regardless of the fact whether it is done negligently or not" The section 52 of Indian Penal Code under describes action taken in good faith as "Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

The word "due care and attention' means that a person has to show not only that he had good intention but also exercised such care and skill as the duty reasonably demanded for its due discharge.

Section 22A: Direction by Central Government to be Complied with: As per this section, the direction given by central government to State Governments should be complied with by State Government.

Section 23: Powers of Central Government to make rules:

1. **Defining standards of quality :** The Rules (Appendix B) provide in detail the Standards of a product in relation to quality parameters like fat content in different classes of milk or milk

products, ingredients to be used in different categories of food e.g. use of additives like colours, preservatives , antioxidants, artificial sweeteners etc and their maximum levels of use, the requirements of nutrients in certain food viz Infant food, infant milk substitutes characteristics to detect adulteration, minimum juice content in fruit drinks etc.

2. To impose conditions for manufacture, distribution, sale, registration of premises conditions for sale, licences etc (Part IX – Rules 49,50, 51).
3. To prescribe conditions of packaging, labeling including nutritional labeling, or special labeling provisions in case of fortified food etc. (Rule 32 to 43)
4. Qualifications, powers and duties of Food Inspectors and Public Analysts- (Rules 6 to 9)
5. To define infrastructure for laboratories where samples can be analysed/ recognition of labs having necessary infrastructure for analytical purposes.
6. To restrict use of certain ingredients etc.
7. To prescribe licensing conditions for import of foods, to check the quality of imports to ensure/ verify that such imports conform to PFA Act/ Rules etc.
8. Procedure of drawing and dispatch of samples by a Food Inspector.
9. To provide methods of analysis for guidance of a public analyst.
10. To provide exemption to any article from provisions of the Act/ Rules subject to any conditions deemed necessary.
11. To provide procedure of destruction etc in case so ordered by the central government or an authorized officer.
12. Any other action necessary to carry out the provisions of the Act

The Rules under this Act are made with prior consultation of CCFS and previous publication in the official gazette. The rules so made are to be placed before each house of parliament within time period as prescribed in the Act (30 days at present). However, prior consultation with CCFS

POWERS OF THE STATE GOVERNENTS

Section 24: Powers of State Governments: This section empowers the state governments to frame rules and regulations after consultation with CCFS and previous publications, for the following purposes:

1. Defining powers, jurisdictions and duties of Food (Health) Authority and Local (Health)Authority.
2. Form, fees and conditions for licenses for manufacture, storage, sale, and distribution of articles of food.
3. Fees for analysis, apportionment (distribution) of fines between local authorities and others.
4. Delegation of powers to subordinate authorities by food (Health) Authority.
5. Rules made by State Government to be laid before state legislatures.

Section 25: As per section 25, all corresponding laws/ Acts in force in states/ union territories stand repealed.

REGULATORY STANDARDS FOR FOODS IN INDIA AND INTERNATIONAL CONTEXT: A SOCIO-HISTORICAL OVERVIEW

United Nations Food Safety Resolutions and Other Actions In 2002, the United Nations in cooperation with consumer organizations drafted and eventually adopted guidelines for consumer protection that urges governments to “give priority to areas of essential concern for the health of the consumer, such as food, water, and pharmaceuticals etc. Governments should maintain, develop or improve food safety measures, including, safety criteria, food standards and dietary requirements and effective monitoring, inspection and evaluation mechanisms.”

These international resolutions demonstrate to the growing urgency of food safety. As food is increasingly traded globally, food safety has become a global public health issue. Dialogue between the United Nations’ specialized agencies and groups representing consumers’ interests is vital to improving national programs and protecting all consumers. Valuable contributions have been made by the long standing involvement of international consumer organizations like Consumers International and the growing involvement of the International Association of Consumer Food Organizations in the work of the Codex

Alimentarius Commission and its subsidiary bodies that deal with health and safety issues. Looking closely on the above positions on international food standards governance, we find that there are mainly **three sites of contestations** (contravercies):
The first is the CODEX itself, wherein the international norms and guidelines are being formulated;
The second one is the WTO, wherein CODEX non-conforming national regimes can be legally challenged through the dispute settlement process; and
The third one (and also perhaps the most dynamic and most interesting) has been the bilateral trade agreements between the two largest trade blocks (viz. the USA and the EU) and the developing countries.

Intergovernmental Standards: Emergence of the Codex Alimentarius Standards The Intergovernmental body for the development of internationally recognized standards for food is the **Codex Alimentarius Commission (CAC**). The Codex Alimentarius Commission (Codex) was established in 1962 in Rome, Italy as an intergovernmental agency of the United Nations under the Food and Agriculture Organization and the World Health Organization (WHO). Currently the Codex Alimentarius Commission has 188 Codex Members - 187 Member Countries and 1 Member Organization (EU); 234 Codex Observers - 54 IGOs, 164 NGOs, 16 UN. The voting members (one State, one vote) for the development of the Codex standards are the national agencies, departments or ministers that regulate the production of food, rather than the national standard organizations that vote for the development of ISO standards. Membership of the Commission is open to all Member Nations and Associate Members of FAO and WHO which are interested in international food standards.

Regional economic integration organizations that are members of either FAO or WHO can also become members and special rules apply. The Codex Alimentarius Commission develops science-based standards taking into account the scientific advice provided by FAO/WHO expert bodies and ad hoc consultations and meetings. Codex committees, when developing standards, apply risk analysis and rely on the independent scientific advice from those FAO/WHO expert committees. Risk analysis is fundamental to the scientific basis of Codex food safety standards. Risk analysis within Codex is a structured, systematic process that examines the potential adverse health effect consequential to a hazard or condition of a food, and develops options for mitigating that risk. This also includes interactive communication among all interested parties involved in the process. Within Codex Alimentarius Commission and its procedures, the responsibility for providing advice on risk management lies with the Commission and its subsidiary bodies (risk managers), while the responsibility for risk assessment lies primarily with the joint FAO/WHO expert bodies and consultations (risk assessors).

The three independent international risk assessment FAO/WHO expert committees are: **Joint FAO/ WHO Expert Committee on Food Additives (JECFA):** JEFCA performs toxicological evaluation for food additives, contaminants, naturally occurring toxicants and residues of veterinary drugs in food. India is a Codex member since 1964. The National Codex Contact point is the Food Safety Standards Authority of India with its head office at New Delhi. It coordinates and promotes Codex activities in India in association with the National Codex Committee and facilitates India's input to the work of Codex through an established consultation process. The FSSAI has appointed the Shadow Committees of the NCC on subject matters corresponding to the Codex Committees to assist the NCC in the study or consideration of technical matters. Officers in the rank of Joint Secretary or above in the concerned Department/Ministry / Food Authority who handle the subject at the policy level and also serve as the members of the NCC may be nominated as the Chairpersons of these Shadow Committees. Specialized experts in the relevant field may be nominated as members of these Shadow Committees.

The Food and Drug Administration (FDA or USFDA)

The Food and Drug Administration (FDA or USFDA) is a federal agency of the United States Department of Health and Human Services, one of the United States federal executive departments. The FDA is responsible for protecting and promoting public health through the control and supervision of food safety, tobacco products, dietary supplements, prescription and over-the-counter pharmaceutical drugs (medications), vaccines, biopharmaceuticals, blood transfusions, medical devices, electromagnetic radiation emit

(medications), vaccines, biopharmaceuticals, blood transfusions, medical devices, electromagnetic radiation emitting devices (ERED), cosmetics, animal foods & feed and veterinary products.

The FDA was empowered by the United States Congress to enforce the Federal Food, Drug, and Cosmetic Act, which serves as the primary focus for the Agency; the FDA also enforces other laws, notably Section 361 of the Public Health Service Act and associated regulations, many of which are not directly related to food or drugs. These include regulating lasers, cellular phones, condoms and control of disease on products ranging from certain household pets to sperm donation for assisted reproduction.

The FDA is led by the Commissioner of Food and Drugs, appointed by the President with the advice and consent of the Senate. The Commissioner reports to the Secretary of Health and Human Services. Admiral Brett P. Giroir is the acting commissioner, as of November 2019.[

CODEX ALIMENTARIUS

The ***Codex Alimentarius*** is a collection of internationally recognized standards, codes of practice, guidelines, and other recommendations relating to foods, food production, and food safety.

Its name is derived from the Codex Alimentarius Austriacus. Its texts are developed and maintained by the ***Codex Alimentarius*** **Commission**, a body that was established in early November 1961 by the Food and Agriculture Organization of the United Nations (FAO), was joined by the World Health Organization (WHO) in June 1962, and held its first session in Rome in October 1963.[2] The Commission's main goals are to protect the health of consumers and ensure fair practices in the international food trade. The Codex Alimentarius is recognized by the World Trade Organization as an international reference point for the resolution of disputes concerning food safety and consumer protection.[3][4]

As of 2012, there were 186 members of the Codex Alimentarius Commission: 186 member countries and one member organization, the European Union (EU). There were 215 Codex observers: 49 intergovernmental organizations, 150 non-governmental organizations, and 16 United Nations organizations.

Scope : The Codex Alimentarius covers all foods, whether processed, semi-processed or raw. In addition to standards for specific foods, the Codex Alimentarius contains general standards covering matters such as food labeling, food hygiene, food additives and pesticide residues, and procedures for assessing the safety of foods derived from modern biotechnology. It also contains guidelines for the management of official i.e. governmental import and export inspection and certification systems for foods.

The Codex Alimentarius is published in the six official languages of the United Nations: Arabic, Chinese, English, French, Spanish and Russian. Not all texts are available in all languages.

General texts

- Food labelling (general standard, guidelines on nutrition labelling, guidelines on labelling claims)
- Food additives (general standard including authorized uses, specifications for food grade chemicals)
- Contaminants in foods (general standard, tolerances for specific contaminants including radionuclides, aflatoxins and other mycotoxins)
- Pesticide and veterinary chemical residues in foods (maximum residue limits)
- Risk assessment procedures for determining the safety of foods derived from biotechnology (DNA-modified plants, DNA-modified micro-organisms, allergens)

- Food hygiene (general principles, codes of hygienic practice in specific industries or food handling establishments, guidelines for the use of the Hazard Analysis and Critical Control Point or "HACCP" system)
- Methods of analysis and sampling

Specific standards

- Meat products (fresh, frozen, processed meats and poultry)
- Fish and fishery products (marine, fresh water and aquaculture)
- Milk and milk products
- Foods for special dietary uses (including infant formula and baby foods)
- Fresh and processed vegetables, fruits, and fruit juices
- Cereals and derived products, dried legumes
- Fats, oils and derived products such as margarine
- Miscellaneous food products (chocolate, sugar, honey, mineral water)

Controversy:

The Codex Alimentarius has been the subject of various conspiracy theories. These accuse it of being an agenda for population control, an anti-supplement Big Brother initiative, of actually implementing eugenics, or a process for World Government establishment.

The controversy over the Codex Alimentarius relates to a perception that it is a mandatory standard for the safety of food, including vitamin and mineral supplements. Supporters of the Codex Alimentarius say that it is a voluntary reference standard for food and that there is no obligation on countries to adopt Codex standards as a member of either Codex or any other international trade organization. From the point of view of its opponents, however, one of the main causes of concern is that the Codex Alimentarius is recognized by the World Trade Organization as an international reference standard for the resolution of disputes concerning food safety and consumer protection. Proponents argue that the use of Codex Alimentarius during international disputes does not exclude the use of other references or scientific studies as evidence of food safety and consumer protection.

THE WTO AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES (SPS AGREEMENT)

The Agreement on the Application of Sanitary and Phytosanitary Measures sets out the basic rules for food safety and animal and plant health standards.

It allows countries to set their own standards. But it also says regulations must be based on science. They should be applied only to the extent necessary to protect human, animal or plant life or health. And they should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail.

Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification. They can also set higher standards based on appropriate assessment of risks so long as the approach is consistent, not arbitrary.

Key Features

All countries maintain measures to ensure that food is safe for consumers, and to prevent the spread of pests or diseases among animals and plants. These sanitary and phytosanitary measures can take many forms, such as requiring products to come from a disease-free area, inspection of products, specific treatment or processing of products, setting of allowable maximum levels of pesticide residues or permitted use of only certain additives in food. Sanitary (human and animal health) and phytosanitary (plant health) measures apply to domestically produced food or local animal and plant diseases, as well as to products coming from other countries.

Article 1 : General Provisions

This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.

Article 2: Basic Rights and Obligations

Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.

Article 3 : Harmonization

To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.

Article 4 : Equivalence

Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

Article 5 : Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.

Article 6 : Adaptation to Regional Conditions, Including Pest — or Disease — Free Areas and Areas of Low Pest or Disease Prevalence

Article 7 : Transparency

Members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B.

Article 8 : Control, Inspection and Approval Procedures

Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for

contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

Article 9 : Technical Assistance

Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

Article 10 : Special and Differential Treatment

In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.

Article 11 : Consultations and Dispute Settlement

The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.

Article 12 : Administration

A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

Article 13 : Implementation

Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies.

Article 14 : Final Provisions

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

TECHNICAL BARRIERS TO TRADE

Technical barriers to trade (**TBTs**), a category of nontariff barriers to trade, are the widely divergent measures that countries use to regulate markets, protect their consumers, or preserve their natural resources (among other objectives), but they also can be used (or perceived by foreign countries) to discriminate against imports in order to protect domestic industries.

The 2012 classification of non-tariff measures (NTMs) developed by the Multi-Agency Support Team (MAST), a working group of eight international organizations, classifies TBTs as one of 16 non-tariff measures (NTMs) chapters. In this classification, TBTs are classified as chapter B and defined as "Measures referring to technical regulations, and procedures for assessment of conformity with technical regulations and standards, excluding measures covered by the SPS Agreement". Here, technical barriers to trade refer to measures such as labeling requirements, standards on technical specifications and quality standards, and other measures protecting the environment. Chapter B also includes all conformity-assessment measures related to technical requirements, such as certification, testing and inspection. Other examples of TBTs are rules for product weight, size, or packaging; ingredient or identity standards; shelf-life restrictions; and import testing and certification procedures.

The Agreement on Technical Barriers to Trade gives rules for the use of such barriers. However, trade experts widely view TBTs as having great potential for being misused by importing countries as nontransparent (disguised or unclear) obstacles to trade. The OECD has been working to make common standardization easier with the ISTR Template allowing common standards to aid in the implementation of the WTO Agreement.

Standards of identity for food

Standards of identity for food are mandatory requirements that are set by a governing body to determine what a food product must contain to be marketed under a certain name in allowable commerce. Mandatory standards, which differ from voluntary grades and standards applied to agricultural commodities, protect the consumer by ensuring a label accurately reflects what is inside (for example, that mayonnaise is not an imitation spread or that ice cream is not a similar but different frozen dessert).

A US trade organization defines the term as follows:

"A standard of identity sets out what ingredients a product must contain, which ingredients it may contain, and any requirements of manufacturing. For example, “Whisky” is defined as “a potable alcoholic distillate obtained from a mash of cereal grain saccharified by diastase of malt or by other enzymes and fermented by the action of yeast”. It may contain caramel and flavouring. No other ingredients are allowed.

If someone were to produce a whisky containing a dye, they would not be permitted to call the product “whisky”, since dye is not a permitted additive. Standards of identity are set out in the Food and Drug Regulations. They may be identified by the symbol “[S]” following the product name in boldface type. As such, they are official common names for products and no other name can be substituted."

A 2014 lawsuit in the United States illustrated the necessity of such regulations. When Hampton Creek implied in its advertising that mayonnaise being marketed by Unilever was not "real" mayonnaise, the latter sued Hampton for defamation and cited the definitions promulgated by the Food and Drug Administration

The term “standard of fill” is used in the TTB regulations to refer to the amount of liquid in the container, and our current regulations prescribe certain specific standards of fill for wine and distilled spirits containers sold within the United States, such as 750, 500, 375, 100, and 50

milliliters. The proposals are intended to eliminate unnecessary regulatory requirements and provide consumers broader purchasing options.

On Monday, July 1, 2019, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published two eagerly anticipated notices of proposed rulemaking (NPRMs) to largely repeal the standards of fill for wine and distilled spirits containers. The highlights:

1. In the preamble to both NPRMs, TTB advances a number of significant policy beliefs on the topic of standards of fill, including:
    - Standards of fill are no longer needed to help protect the revenue and enforce the excise tax.
    - Standards of fill are not critical to protecting consumers, because consumers can rely on mandatory net content statements on labels.
    - The lack of any standards of fill for malt beverages has not created any revenue or consumer deception problems.
2. For spirits, TTB proposes to eliminate all standards except for a minimum of 50 milliliters and a maximum of 3.785 liters (one gallon). The maximum reflects the Federal Alcohol Administration Act's statutory maximum for distilled spirit containers.
3. For wine, TTB proposes to eliminate all standards except for a minimum of 50 milliliters. TTB selected the 50-milliliter minimum to ensure that containers were sufficiently large to show all mandatory label information.
4. The distilled spirits NPRM also includes a proposal to codify in the malt beverage labeling regulations the longstanding practice of permitting metric volume measures in addition to the non-metric measures required by current regulations.
5. Both NPRMs also discuss potential alternatives to eliminating the standards of fill by:
    - Maintaining existing standards but adding a number of new sizes to those authorized; or
    - Establishing a system where standards of fill are approved by TTB via a streamlined administrative process.
6. The comment periods for both NPRMs close on **August 30, 2019**.

These proposals respond to a number of petitions on the subject of standards of fill and appear to reflect the current Administration's deregulatory agenda.

Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

3 liters.	375 milliliters.
1.5 liters.	187 milliliters.
1 liter.	100 milliliters.
750 milliliters.	50 milliliters.
500 milliliters.	

(b) *Sizes larger than 3 liters.* Wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters (4 liters, 5 liters, 6 liters, etc.).

(c) *Tolerances.* The tolerances in fill are the same as are allowed by § 4.37 in respect to statement of net contents on labels.