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# FINANCE COMMITTEE

**Hundred and Seventieth Session**

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**Implementing a Sustainable Funding Solution to the FAO's Work and  
Activities relating to Food Safety Scientific Advice for Codex Alimentarius**

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FC170

GUIDANCE SOUGHT FROM THE FINANCE COMMITTEE

- The Finance Committee is invited to endorse the proposed way forward in implementing a sustainable funding solution to FAO's work and activities relating to Food Safety Scientific Advice for Codex Alimentarius.

**Draft Advice**

- **The Finance Committee supported the proposals for sustainable funding to FAO's work and activities relating to Food Safety Scientific Advice for the Codex Alimentarius.**

## *Background*

1. FAO plays a key global role in food safety governance and in food safety capacity development. FAO hosts the Secretariat of the Joint FAO/WHO Codex Alimentarius Commission and, jointly with the World Health Organization (WHO), provides scientific advice that underpins Codex standards. The Joint FAO/WHO programme providing scientific advice in support of Codex standard setting remains a foundational element of global food safety governance. Without the authoritative and globally-relevant advice from the Joint FAO/WHO expert bodies, the setting of many critical Codex food safety standards would not be possible. In recent years the members of the Codex Alimentarius Commission (CAC) have underlined the urgent need to secure increased and more stable funding for this programme in order to address the increasing backlog and ensure the continued delivery of the scientific advice vital for the work of the CAC. Such calls have been echoed in various FAO governing bodies.
2. FAO and WHO promote the application of risk assessment in all matters involving food safety, which must be based on sound scientific advice and evidence provided by competent and independent experts. Risk assessment is one of the components of risk analysis - the other two being risk management and risk communication.
3. At international level, to support the work of the Codex Alimentarius Commission, risk assessment is carried out by three international expert scientific committees that are administered jointly by FAO and WHO. They are the Joint FAO/WHO Expert Committee on Food Additives (JECFA), which has been meeting since 1956, the Joint FAO/WHO Expert Meetings on Microbiological Risk Assessment (JEMRA) and the Joint FAO/WHO Meeting on Pesticide Residues (JMPR). In addition, FAO and WHO convene ad hoc expert consultations whenever needed to address specific issues not covered by the permanent panels.
4. Member countries have raised the issue of the possibility of broadening the donor base not only with respect to increasing the country-base but also to include non-state actors (NSA), including private sector donors. So far, FAO has underlined the critical need to safeguard the independence and impartiality of the Scientific Advice Programme from risks – real and perceived – of conflict of interest, which would be linked to the receipt of funds from the private sector (companies and larger foundations funded or governed by private sector or commercial food organizations). In 2017, FAO established an Umbrella TF to facilitate the receipt of extrabudgetary funds from member countries for strengthening of the Scientific Advice Programme.
5. At its 25<sup>th</sup> Session (26-30 September 2016), the Committee on Agriculture (COAG), *“agreed to mandate its Bureau to create an informal open-ended Working Group to consider options for adequate and sustainable funding for WHO/FAO’s Food Safety Scientific Advice Programme, building on the recommendations of the Codex Alimentarius Commission and to present its recommendations for consideration to an appropriate FAO Governing Body during 2017-18.”*
6. The Open-Ended Working Group of the Committee for Agriculture met twice and developed a series of considerations for discussion at the Joint Meeting of the 122<sup>nd</sup> session of the Programme Committee and 169<sup>th</sup> session of the Finance Committee (6 and 9 November 2017).

7. The FAO Council at its 158<sup>th</sup> Session in December 2017 subsequently endorsed<sup>1</sup> the Report of the Joint Meeting<sup>2</sup> and approved:

- a) the allocation, with agreement from resource partners, of 10 percent of the unspent balances of the MAFAP/FMM Trust Funds, up to a maximum of USD 0.5 million, for the Blind Trust Fund aimed at supporting a sustainable funding solution to the FAO's work and activities relating to scientific advice for food safety and the Codex Alimentarius; and
- b) the allocation of fifty percent of unspent balance of the 2016-17 appropriations above a threshold of USD 5 million, up to a maximum of USD 1 million, towards the Blind Trust Fund.

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<sup>1</sup> CL 158/REP. para. b.

<sup>2</sup> CL 158/8

## Considerations in implementing the Council recommendation

8. Considerations to implement the Council recommendations are under development with respect to additional funding to be provided for the FAO Programme of Food Safety Scientific Advice, covering the scientific advice activities of the joint FAO/WHO committees JECFA, JEMRA, and JMPR and ad hoc FAO/WHO Expert Bodies (“Food safety Scientific Advice Programme”).

### *FAO’s unspent balance*

9. Existing administrative mechanisms can be used to direct any unspent funds from FAO’s Regular Programme to support the work of the FAO Food Safety Scientific Advice Programme.

### *Contributions from member countries*

10. A range of existing Trust Fund mechanisms can adequately deal with funds provided by member countries, including funds remaining from the unspent balances of the Monitoring and Analysing Food and Agricultural Policies (MAFAP) project and the FAO Multi-partner Programme Support Mechanism (FMM) Trust Funds.

### *Contributions from non-state actors*

11. Any mechanism that allows private sector contributions to FAO’s normative work, and in particular contributions to the scientific input to normative work, raises questions of real or perceived conflict of interest. It is critical that the scientific process in connection with standard setting for food safety takes place without any undue influence to ensure the integrity and neutrality of the standard setting process, as well as the continued trust of FAO Members and the public at large in food safety standards.

12. In order to address potential conflicts of interests, a number of measures would be required to manage the risks described here, and ensure the absence of any form of linkage between a contribution and the work of the Scientific Advice Programme.

13. This may be achieved by establishing a multidonor Trust Fund (MUL Trust Fund), de facto a Blind Trust Fund as all contributions are un-earmarked and pooled, to effectively separate the incoming contribution from influence over the work plan, activities and scientific output of the Scientific Advice Programme. A clear and transparent “firewall” would be put in place between the MUL Trust Fund and the activities of the Scientific Advice Programme funded by the MUL Trust Fund. A number of features are considered to ensure the solidity of such a firewall.

### *Food Safety Scientific Advice Programme: scope and nature of its work*

14. The work of FAO’s scientific advice is driven by two demands: demands arising from the Codex system and internally identified demands to review and update methodologies and procedures to maintain the excellence and credibility of the FAO/WHO Scientific Advice Programme. In the former case, in accordance with the procedural manual of the Codex Alimentarius Commission, requests for scientific advice from various Codex technical committees and task forces<sup>3</sup> are discussed and approved by Codex member countries. Each Committee and task force prioritizes and communicates independently their needs to FAO and WHO. The different Committees use different processes for prioritizing their work and their requests to FAO and WHO. In some cases, the relevant FAO/WHO Scientific Advice bodies (in particular JECFA and JMPR) receive more requests than can

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<sup>3</sup> Committees that regularly seek FAO/WHO food safety scientific advice are Codex Committee for Food Hygiene; Codex Committee for Contaminants in Foods; Codex Committee for Residues of Veterinary Drugs in Foods; Codex Committee for Food Additives; Codex Committee for Pesticide Residues. The recently established Task Force on Antimicrobial Resistance has already submitted a number of requests for scientific advice.

be handled. In these cases, prioritization and development of a Scientific Advice work plan is made through discussion between the FAO and WHO Secretariats, and then approved through the relevant Organizational channels.

15. In relation to the ongoing work of continuous improvement, FAO and WHO decide what work is required to update the scientific processes feeding into the Scientific Advice Programme and to upgrade, as necessary, administrative processes. It should be emphasized that there are several clearly established processes that ensure transparency, independence and credibility of the FAO/WHO Scientific Advice Programme which are outlined in the Framework for FAO/WHO Scientific Advice and include: declaration of interest, confidentiality undertaking, code of conduct, etc.

16. The budget of the FAO Scientific Advice Programme primarily covers: staff costs; contracts and consultants as required to implement technical preparations for Joint expert meetings or for Programme improvements and updating; travel costs associated with Joint expert meetings.

### **Implementation of Council recommendation: proposed option**

#### *Multidonor Trust Fund for contributions from State and non-state actors*

17. As noted earlier, FAO has established an Umbrella programme to facilitate the receipt of voluntary funds from member countries for the strengthening of the Scientific Advice Programme. Two Trust Funds (Canada is the donor in both cases) are already operational and contribute to the results and outputs identified in the Umbrella programme. The Umbrella TF has a budget target of USD 7,272,469 required to achieve expected outputs over a five-year period (2017 – 2022). So far approximately USD 656,000 have been received.

18. FAO proposes to establish a new multidonor Trust Fund (MUL Trust Fund) to support the functioning of the Committee for Scientific Advice. The MUL Trust Fund would cover experts' travel costs, contracts and consultants' costs for technical preparatory work and operating expenses for the holding of the meetings. Unspent funds from FAO 2016-2017 Regular Programme or from other FMM/MAFAP Trust Funds, in line with the Council decision, as well as contributions from member countries and non-state actors could be pooled into the MUL Trust Fund to support the work of the FAO Food Safety Scientific Advice Programme.

19. In particular, private entities could provide un-earmarked financial contributions to the MUL Trust Fund in relation with norms and standard setting to support the whole programme of Scientific Advice to Codex, but not any specific activity and/or topic to be carried out, or targeting a specific country, especially regarding research that could potentially lead to policies, guidelines, and/or statements. Furthermore it has to be highlighted that funding from a NSA to the FAO Food Safety Scientific Advice Programme does not constitute in any form a bilateral partnership between the NSA and FAO.

20. Features of the MUL Trust Fund to ensure an adequate firewall:

- a) The MUL Trust Fund would be established for a period of four years (i.e. until 31.12.2021);
- b) The contributions of non-state actors to the Scientific Advice Programme will entirely be pooled in the MUL Trust Fund, and will not be identifiable once they are placed in the MUL Trust Fund;
- c) FAO will provide to all partners to the MUL Trust Fund an annual narrative and financial report for the MUL Trust Fund, **as a whole**, with no distinction by partner and contribution. Such reporting would reflect the absence of linkages in the financial systems of FAO between the contributions to the MUL Trust Fund and any particular activity financed by the MUL Trust Fund;

- d) Contributions to the MUL Trust Fund will be accepted only to further the generic objective of supporting the implementation of the Scientific Advice Programme and cover any funding shortfalls that exist that hinder the full delivery of scientific advice as requested by the Codex Alimentarius Commission. Contributions to finance specific activities, including specific scientific risk assessments will not be accepted;
- e) Within 6 months after the closure of the MUL Trust Fund, contributors will receive a narrative and financial final report for the project as a whole, with no distinction by partner and contribution;
- f) The MUL Trust Fund will be subject to a mid-term independent evaluation by year 2020. The Scientific Planning Group is composed of the ADG-AG and the ADG-TC. Its Terms of Reference will be to consider and approve biannual work plans;
- g) A standard contribution agreement will be used to formalize the contributions made by partners. All contribution agreements will include specific clauses to protect the independence of the scientific process, including the independence of any staff or procedure in connection with the MUL Trust Fund disbursement decisions; and
- h) The agreements will provide that FAO and/or WHO logos cannot be used. Any communication (be it for internal or external use) by the contributors to the Fund will require prior clearance and approval by FAO.

*Processes for developing and implementing the FAO Scientific Advice Programme work plan*

21. As outlined before, the work programme of the FAO Food Safety Scientific Advice Programme is largely determined by requests made by Codex Technical Committees, but there are also internal processes for prioritization and for deciding on work needed to update or upgrade the Programme (both scientific and procedural aspects). Improving the transparency of internal processes will be an important contribution to the firewall and will be necessary in developing the 2-year work plan against which the MUL Trust Fund will deliver. This could include the following.

22. Making explicit considerations guiding work-planning and prioritization by FAO and WHO, such as:

- a) actual funds and staff resources available at FAO and WHO;
- b) any emergencies in terms of public health and trade impact that would require immediate actions;
- c) ensure efficiency and effectiveness of meeting by:
  - i) grouping compounds that best match the expertise of invited experts to ensure cost-effective meetings
  - ii) ensuring presence of sufficient number of experts for each compound to guarantee suitable peer-review
- d) methodological work:
  - i) ensure long-term sustainability of the Scientific Advice Programme through ongoing improvements of the scientific methodologies involved
  - ii) align the scheduling of substances that will benefit from currently ongoing methodological improvements, with the progress of such methodological work.

23. Strengthening and standardizing internal clearance processes of the FAO Food Safety Scientific Advice Programme work plan:

- a) a specifically established Committee internal to FAO (tentatively named “Scientific Planning Group”) will consider and approve the two-year work plan for the FAO Food Safety Scientific Advice Programme (based on the FAO/WHO work planning and prioritization process outlined above), specifying the activities it will undertake (with relevant budget) with funding from the MUL Trust Fund. The work plan reflects no undue consideration of sources of funding; and

- b) the Scientific Planning Group is composed of the ADG-AG and ADG-TC. Its Terms of Reference will be to consider and approve biannual work plans.
24. Updating the Framework for the development of FAO/WHO Scientific Advice:
- a) The current version of the document does not reflect current practice (refer to Section 2.4 for description of some key processes covered).
25. Improving the style and clarity of the FAO/WHO Scientific Advice Programme reporting to the Codex Commission and Executive Committee on progress and planned work:
- a) annual documentation is already provided. Changes would improve clarity and transparency without compromising the independence of the “risk assessment” function of the Scientific Advice Bodies with respect to the “risk management” function of the Codex Alimentarius Commission.
26. It will be important to ensure that the processes for planning and implementation of the programme of work remain driven by technical and scientific considerations and are consistent with the joint (FAO/WHO) nature of the programme.

*Screening of non-state actors interested in contributing to Scientific Advice Programme*

27. Although this would not constitute a bilateral partnership with FAO, any funds received by the Organization from the private sector and other NSAs would still be subject to a general risk analysis and review through the due diligence system, however performed in a lighter way (not following the usual strict process used for full-blown partnerships). The Partnerships and South-South Cooperation Division (DPS) will perform a risk assessment including potential conflict of interest, financial risk, threats to neutrality, independence or scientific credibility and make a decision on a case-by-case basis. Common UN system exclusionary areas would still apply (arms, trafficking, etc.). DPS should be informed at an early stage and provided with the needed documentation regarding the NSA to provide clearance.

**Evaluating residual risk and its possible consequences**

28. FAO wishes to highlight that the FAO/WHO scientific advice programme is irreplaceable in terms of global acceptability, representativeness and credibility. It is therefore of paramount importance that its neutrality and integrity be fully preserved and be unquestioned.
29. FAO is confident that the establishment of a multidonor Trust Fund and the processes and measures mentioned above can ensure independence and neutrality of the Scientific Advice Programme. FAO is however, also fully aware that by expanding the resource base for the Scientific Advice Programme, it will become even more challenging to manage perceived risk.
30. FAO acknowledges however that a zero-risk situation will be very difficult to achieve. Recent examples show that, even in the current status of funding for the Scientific Advice Programme and in the presence of routine risk management measures, there are still periodic disruptive questioning linked to perceived undue influence of industry.
31. Although FAO and WHO at times work separately in their contributions to the process of risk assessment outlined above, the work of the two Organizations comes together through the three jointly administered Expert Scientific Committees. Given this joint nature of the FAO/WHO Scientific Advice Programme any reputational risk would be equally borne by FAO and WHO. Consequently, the acceptability to WHO of an expanded resource base (i.e. private sector contributions) for the Scientific Advice Programme managed by FAO will need to be ascertained.
32. FAO informed WHO counterparts of the FAO Council resolution and of its intention to set up a new multidonor Trust Fund to support the functioning of the Scientific Advice Programme. An

initial discussion took place on this topic on 10 April 2018 in Rome. WHO welcomed the discussion recognizing that non-state actor funding has been a long-standing issue for both Organizations. They emphasized that expert bodies are a cornerstone of WHO's normative work and require a high level of transparency and impartiality. WHO further noted that these food safety expert bodies are viewed as being jointly operated by FAO and WHO and no distinction between the FAO portion and the WHO portion of their work is made.

33. WHO agreed to internally consult on legal, partnerships, ethics and resource mobilization issues for the proposal under discussion in FAO. They further stated their commitment to continue exploring means to ensure sustainable funding of the joint expert bodies. They requested that care be taken to inform and involve Member States, to manage potentially different aspirations between FAO Member States and WHO Member States, and between the Rome-based and Geneva-based missions on this matter.