



JOINT FAO/WHO FOOD STANDARDS PROGRAMME
FAO/WHO COORDINATING COMMITTEE FOR AFRICA

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DISCUSSION PAPER ON HARMONIZED FOOD LAW GUIDELINE FOR CCAFRICA REGION

Prepared by Kenya

Introduction

1. During the discussion at its 1st session of FAO/WHO Coordinating Committee for Africa (CAFRICA) meeting held in Rome, Italy from 24th - 27th June 1974 under discussion on “**Development of Modern Food Law for Africa**” (para 8-13, ALINORN74/28) the committee recognized the need for modern food law for Africa.
2. During the discussion at its 2nd session of FAO/WHO Coordinating Committee for Africa (CAFRICA) meeting held in Accra, Ghana from 15th – 19th September 1975 under discussion on “Further Consideration of Model Food Law” (para 16-26, ALINORM 76/28) a model food law was discussed CX/AFRO/75/3 and adopted.
3. During the discussion at its 5th session of FAO/WHO Coordinating Committee for Africa (CAFRICA) meeting held in Dakar, Senegal from 25th - 29th May 1981 under the discussion “**Model Food Law**” para 22, ALINORM81/28 delegations were invited to give updates on the status of implementation on model food law in their respective countries. Further other subject committees e.g. CCPR and CCFA were considering regulatory frameworks in strengthening the Model Food law
4. During discussion at its 16th session of FAO/WHO Coordinating Committee for Africa (CAFRICA) meeting held in Rome, Italy from 25th -28th January 2005, under agenda item 5, **Food Legislation and food control activities in the region** (para 50, REP15 ALINORM 05/28/28) it was mentioned that only Morocco had drafted a food law in Africa
5. While model food law had been discussed from 1974 to 2015, no work has been done to specifically develop a harmonized African Food Law.
6. At the 22nd session of FAO/WHO Coordinating Committee for Africa (CAFRICA) meeting held in Nairobi, Kenya from 16th – 20th January 2017, under agenda 3 (b) *Prioritization of the needs of the region and possible approaches to address them*, Kenya made a presentation on the importance of a harmonized food law to address the food safety gaps in the region and facilitate trade across the region. Following the extensive discussions among members during the meeting, CAFRICA requested Kenya to prepare and submit a discussion paper together with a project document and a draft harmonized food law for the African region for consideration at its next session (para. 49, REP17/CAFRICA).
7. Kenya came up with discussion paper and project document, which was circulated to member countries for comments and thereafter noted that harmonized food law guideline will be more appropriate than a harmonized food law. This is in line with procedure of developing standards, guidelines and principles, codes of practice.
8. This discussion paper proposes to come up with a harmonized food law guideline for the African region. The harmonized food law guideline will assist African countries to develop national food laws governing food control, food safety and food trade and will focus on laws and regulations that refer to food in general. Food safety laws, food inspection laws, export and import rules for foods and feeds will all fit within this category. This in line with principles and guidelines of most of the CODEX text such as CAC/GL 22R-1997-Regional guidelines for design for control measures for street vended food (Africa); CAC/GL19-1995-Principles and guidelines for exchange of information on food safety emergency situations.

Rationale

9. There is increasing recognition of the need to integrate and improve coordination of regulatory activities among National and Regional bodies to better protect human, animal and plant life and health as well as the environment, without creating unnecessary barriers to trade.
10. Effective food laws are essential to protect the health and safety of consumers. They are also critical in enabling countries to assure the safety and quality of their foods entering international trade and to ensure that imported foods conform to national requirements.
11. There are concerns arising from use of pesticides, veterinary drugs, food additives and the presence of microbial toxins, contaminants, antimicrobial resistance as well as emerging threats such as avian influenza.
12. The food control challenges facing the African region includes outdated regulations and weak law enforcement, inadequate capacity for food safety management, overlapping mandates among others.
13. Existing legislations have limitations in meeting the WTO/SPS and WTO/TBT agreements, because many of them are outdated and fragmented.
14. The need for a harmonized African food law has been discussed in various meetings of CCAFRICA since 1974 but no progress has been made.
15. In many African countries, laws and regulations may not have been updated or may have constantly been amended, creating a maze of rules which regulators, industry and consumers find difficult to understand and implement. Changes may have been influenced by the need to develop a regulatory framework for the domestic market or to promote exports. In such cases the legislative instruments may have addressed only specific products or specific food-related activities, and the whole system can therefore lack coherence and be quite complex. The resultant effect is creation of barriers to trade.
16. The fast growth of food industry, increase of trade within the region and consumer demand for safe food requires a pragmatic approach to update existing laws to protect consumers and facilitate intra-Africa trade.
17. Risk analysis shall form the foundation on which food law is based. There is need to adopt risk based approach rather than product approach as per the current CODEX Procedural Manual¹.
18. Farm to Fork approach: An effective food law should encompass traceability of food and feed and their ingredients (CAC/GL60-2006-Principles for traceability/product tracing as a tool within a food inspection and certification system). In order to ensure the safety of food, it is necessary to consider all aspects of the food production chain as a continuum from and including primary production and the production of animal feed up to and including sale or supply of food to the consumer. This is because each element may have a potential impact on food safety.
19. The Food Law guideline will provide for competence in personnel, appropriate quality infrastructures including accredited laboratories at national and regional levels to support enforcement.
20. The food Law guideline will facilitate intra-Africa trade, enable food business operators to provide safe food, access to market and increase consumer confidence.

Recommendation

21. Given the above analysis, it is recommended that CCFARICA23 initiate new work on regional harmonised food law guidelines for Africa and submit the attached project document (Appendix 1) to CAC43 for approval.

¹ [Codex Alimentarius Commission Procedural Manual, 26th Edition](#)

Appendix 1

PROJECT DOCUMENT

PROPOSAL FOR NEW WORK TO DEVELOP A HARMONIZED FOOD LAW GUIDELINE FOR CCAFRICA REGION

1. Purpose and scope of the proposed harmonized Food Law Guideline

The purpose and scope of this work is to develop a harmonized food law guideline for CCAFRICA, to enable member states to develop or update risk-based food control system. This will guarantee protection of human life and health, consumers' interest, fair trade practices as well as animal health and welfare, plant health and the environment while ensuring free movement of food and feed produced and traded in African countries. The proposed guideline will assist member countries to develop harmonized food laws which will cover all food and feed produced and marketed within the region. The import and export procedures will be guided by the principles as set out in CCFICS text.

2. Relevance and Timeliness

Despite the fact that model food law had been discussed from 1974 to 2015, no work has been done to specifically develop a harmonized African Food Law. Meanwhile, there is expansion in Africa regional integration leading to increase in food trade as well as consumer safety concerns. This has resulted in the development of food and feed standards and technical regulations which are not harmonized and hence potential barrier to trade.

This proposal addresses the need for FAO/WHO CCAfrica member states to enhance the food control systems, promote harmonized legal framework, build capacity of the regulatory agencies and promote a risk-based approach to food regulations. The harmonized food law guideline will promote a risk-based farm to fork approach in protecting consumers and facilitating trade.

The harmonized food law guideline has the potential to not only remove restrictions to trade but also to free up resources for exporting and importing countries alike, which could be better allocated to manage more pressing areas of risk.

3. The main aspects to be covered

The proposed harmonized food law guideline will cover general principles of food and feed law, risk analysis, food safety management, public consultation and information, obligations of food trade, imports and exports guidelines and principles, responsibilities of food and feed business operators and competent authorities, traceability and recall, packaging and labelling and mutual recognition that form a horizontal framework underpinning all measures relating to food and feed. The work will result in harmonized food law guideline for Africa that is preventive and holistic in the approach to reduce food borne illnesses.

4. Assessment against the Criteria for the Establishment of Work Priorities**General Criterion:**

Consumer protection from the view of health, food safety, ensuring fair practices in food trade and taking into account the identified needs of developing countries.

The proposed work on harmonized food law guidelines will assist African countries in developing food laws that protect consumers from the point of view of health, food safety and ensuring fair practices in the food trade.

Criteria applicable to General subjects*a) Diversification of national legislations and apparent resultant or potential impediments to international trade:*

In many African countries laws and regulations may not have been updated or may have constantly been amended, creating a maze of rules which regulators, food industry and consumers find difficult to understand and implement. The current food laws are fragmented, overlapping and not generally risk based. In addition, there is limited practice of equivalence and mutual recognition. The proposed harmonized food law guideline will assist countries in addressing the aforementioned issues and updating their legislation to facilitate trade and protect consumer health.

b) Scope of work and establishment of priorities between the various sections of work:

Refer to section 3 above.

c) *Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body (ies):*

There is no any other work which has been done within the region on harmonized food law guideline. With regard to the development of a harmonized food law guideline for Africa, the work will make reference to:

- i) Food Safety and Nutrition Food Law Guidelines by WHO-AFRO (2002).
- ii) FAO/WHO Assuring Food safety and Quality: Guidelines for Strengthening food control systems, Rome 2003 – FAO/WHO Food and Nutrition Paper
- iii) National Food Safety System in Africa – A situation analysis. {Paper prepared by FAO regional office for Africa for the FAO/WHO Regional Conference on food safety for Africa, October 2005. CAF 05/2
- iv) FAO/WHO Model Food Lawⁱ.FAO and WHO, 2003.

d) *Amenability of the subject of the proposal to standardization:*

The FAO/WHO Coordinating Committee for Africa (CCAFRICA) believes that a harmonized food law guideline for the region can be developed to address the issues identified.

e) *Consideration of the global magnitude of the problem or issue:*

The CCAFRICA has identified a need for the development of the harmonized food law guidelines for Africa to address fragmented and outdated nature of existing legislation and enhance global trade. As mentioned in (a) above in order to guarantee consumer health and facilitate fair food trade practices.

5. Relevance to Codex strategic objectives

The proposed work directly relates to Codex Strategic plan, 2014-2019 goal 1: Promoting sound regulatory frameworks. It relates in particular to Objective 1.2, which aims to proactively identify emerging issues and member needs and where appropriate develop relevant food standards. This work is also aligned to Codex Strategic Goal 2, which aims to ensure application of risk analysis principles in development of codex standards particularly Objective 2.3, to increase scientific input from developing countries.

The work also relates to CCAFRICA Strategic plan, 2014-2019 goal 2: Develop Africa regional food standards that addresses current and emerging food safety challenges and Goal 4: Use of codex standards and related texts to improve the quality and food safety in FAO/WHO CCAFRICA Member countries in particular Objective 4.3: To assist FAO/WHO CCAFRICA Member Countries to harmonize their food safety policies and legal frameworks in line with Codex standards and related texts. Activities stating as: Encourage FAO/WHOCACAFRICA member countries to share and work together at the regional economic community's level to harmonize national food laws and regulations and Encourage FAO/WHO/CCAFRICA member countries to transcript Codex standards in national food laws and regulations.

6. Information on the relation between the proposal and other Codex documents

The proposed work will take into account aspects of the work of CCFICS and in particular:

- *Principles and guidelines for exchange of information on food safety emergency situations (CAC/GL19-1995),*
- *Principles for traceability/product tracing as a tool within a food inspection and certification system (CAC/GL60-2006);*
- *Principles for food import and export inspection and certification (CAC/GL20-1995).*

7. Identification of any requirement for and availability of expert scientific advice

No scientific expert advice is envisaged at this stage.

8. Identification of any need for technical input to the standard from external bodies so that this can be planned for

Expert advice from WHO/FAO experts such as those involved in development of the Perspectives and guidelines on Food legislation with the new model food law will be required. In addition, the members will seek assistance and guidance from WHO/FAO legal office.

9. Completion of the new work and other conditions

| ACTIVITIES | PROPOSED TIMELINES |
|---|---------------------------|
| Approval of new work by CAC43 | 2020 |
| Consideration of the draft harmonized food law at Step 3 CCAFRICA24 | 2021 |
| Adoption at Step 5 by CAC45 | 2022 |
| Consideration at Step 7 by CCAFRICA25 | 2023 |
| Final Adoption by CAC47 | 2024 |

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References

- Perspectives and guidelines on food legislation with a new model food law.
- http://europa.eu.int/colm/dgis/health_consumer/food_safety/htl
- FDA Food Safety Modernization Act (FSMA) https://www.fda.gov/food/guidance_regulations/fsma
- Patricia and Curtis, An Operational text book guide to food laws and operations
- Food Safety Management System. ISO 22000:2018
- The structure of European food law-mdpi. www.mdpi.com/2075-471x2/2/69pdf
- Food safety and standards act 2006 along with rules and regulation 2011. Commercial law publishers of India, PVT Limited
- FAO/WHO Model food law www.fao.org/agn/food/pdf/food_law.pdf