



**Food and Agriculture Organization
of the United Nations**

FAO Technical Summary Report

Food safety policy and legislation in the newly decentralized Federal Democratic Republic of Nepal



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Regional Office for Asia and the Pacific
Food and Agriculture Organization of the United Nations
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Abstract

In 2015, the new constitution was adopted in the Federal Democratic Republic of Nepal, which enshrines complete decentralization within the federalism. The process for the decentralization is currently under way in the year of 2017 and there are numerous uncertainties still outstanding in the food safety area. In particular, the government is still actively deciding how to assign various food safety activities to the three levels of government (central, regional, and local). In light of the situation, FAO has focused on providing inputs to guide the government's decision making on which food safety related legislative activities to decentralize in the new federal system. Accordingly, a stakeholder consultation was held on 20 December 2017 to collect and disseminate the views of the governmental and non-governmental experts involved in food safety in Nepal, so as to provide the most up-to-date recommendations to the government on the decentralization process. Involving Nepali governmental, non-governmental, and consumer representatives in formulating the recommendations would also cultivate a sense of ownership in the process of decentralization to a federal system, fostering more compliance with the new set-up once it is in place. In conclusion, the stakeholder meeting agreed that the draft policy is quite comprehensive, but the structure of the document is not ideal, and it leaves out or underemphasizes some important issues, such as federalism, One Health approach, multi-sectoral coordination, and shared responsibility of food safety. As for the existing legislation, Nepal's food laws may be 40 years old and modernization of certain items may be useful, but they can still serve as an adequate scaffolding for more detailed regulations that implement a comprehensive food safety system. Nonetheless, because Nepal needs new food legislation to operationalize the federal system, now is the perfect time to enact a comprehensive legislative framework that will reflect the new government structure, incorporate modern concepts of food safety, reflect the current international consensus, and embody the new food safety policy. On a practical level, the expert recommends that the government consider fostering better coordination among the various government entities involved in or tangentially related to food safety.

Keywords: food safety; legal frameworks; food policies; food legislation; Nepal; One Health

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Abbreviations and acronyms

ADS	Agricultural Development Strategy
DFTQC	Department of Food Technology and Quality Control
DOLS	Department of Livestock Services
FAO	Food and Agriculture Organization of the United Nations
FAORAP	FAO Regional Office for Asia and the Pacific
GAP	Good Agricultural Practices
GHP	Good Hygiene Practices
GMP	Good Manufacturing Practices
HACCP	Hazard Analysis and Critical Control Point
IFPRI	International Food Policy Research Institute
PPD	Plant Protection Directorate
SPS	Sanitary and Phytosanitary
TIS	Trade Integration Strategy
USAID	United States Agency for International Development
WTO	World Trade Organization

Preface

Political instability reigned in Nepal for most of the last dozen years, culminating in the abolition of the monarchy in 2006 and the adoption of a new constitution in 2015. The constitution enshrines federalism, although the implementing legislation needed to decentralize the government's activities and put in place the federal system is still being prepared and adopted. During the expert's mission to Nepal, it became clear that the process is very much under way, and there are numerous questions still outstanding in the food safety area. In particular, the government is still actively deciding how to assign various food safety activities to the three levels of government (central, regional, and local).

In light of the uncertainty surrounding the government's decentralization plans, the fluid political environment, and the brevity of the mission, it was agreed the mission, instead of making legislative recommendations, would focus on providing inputs to guide the government's decision making on which activities to decentralize in the new federal system. This is because without knowing which governmental level institutions will exercise which food safety activities, it is impossible to recommend what legislation should say. The legislative recommendations will wait until early 2018 when the government decisions about assignments of responsibility are completed.

Accordingly, the team capitalized on the timing of the mission and the planned stakeholder consultation to collect and disseminate the views of the governmental and non-governmental experts involved in food safety in Nepal, so as to provide the most up-to-date recommendations to the government on the decentralization process. Involving Nepali governmental, non-governmental, and consumer representatives in formulating the recommendations would also cultivate a sense of ownership in the process of decentralization to a federal system, fostering more compliance with the new set-up once it is in place.

The stakeholder consultation was held on 20 December 2017. The first part of the consultation consisted of presentations on the current institutional setup for food safety and planned decentralization reforms, while the second part of the consultation saw participants divided into three working groups. The first working group formulated recommendations on which governmental food safety activities should be undertaken at which level; the second working group made concrete recommendations for how to formally include consumers and consumer representatives in Nepal's food safety system; and the last working group identified gaps, overlaps, and needed changes in the institutional framework for food safety activities in the country. During the mission, the expert also reviewed the draft food safety policy initially developed by DFTQC and revised with support from USAID and IFPRI. The expert concluded that the policy is quite comprehensive, but the structure of the draft policy is not ideal, and it leaves out or underemphasizes some important issues, such as federalism, One Health, coordination, and producer responsibility.

As for the existing legislation, Nepal's food laws may be 40 years old and lack some "modern" concepts but they can still serve as an adequate scaffolding for more detailed regulations that implement a comprehensive food safety system. Nonetheless, because Nepal needs new food legislation to operationalize the federal system, now is the perfect time to enact a comprehensive legislative framework that will reflect the new government structure, incorporate modern concepts of food safety, reflect the current international consensus, and embody the new food safety policy. On a practical level, the expert recommends that the government consider fostering better coordination among the various government entities involved in or tangentially related to food safety. In particular, involving consumers in the food safety system is important. Other key changes to construct an effective national food control system need to be put in place.

The expert also recommended establishing a strong donor coordination mechanism to bring all donors to the table for regular meetings to plan and coordinate. The annual or biennial donor plans that arise from this donor coordination mechanism should stem from and be closely linked to the Government of Nepal's own development plans.

1 Overview

FAO conducted several in-depth consultancies in Nepal in 2003, 2004, and 2008 that addressed the landscape for food safety policy and food legislation. The missions and resulting reports provided road maps for the way forward on how to update the policy and legislative framework for food safety as well as for biosecurity. Unfortunately, political challenges in Nepal over the succeeding years prevented the Government of Nepal from taking action on the recommendations.

More recently, however, the country has adopted a new constitution and a decentralization policy and is currently in the process of addressing substantive areas of law and policy in preparation for the full implementation of the new federal government structure. Thus the timing was apt for this FAO mission, which was intended to provide comments on a new draft food safety policy (prepared by the Department of Food Technology and Quality Control (DFTQC) and revised under the auspices of USAID and the International Food Policy Research Institute (IFPRI)) and make recommendations for eventual legislative change to be undertaken. The overall goals of this brief mission were to provide a candid assessment of the draft food safety policy, identify any gaps, indicate necessary legislative changes, and outline the scope of potential future assistance from FAO. The expert travelled to Nepal from 17 to 22 December 2017 to undertake a mission to fulfill the terms of reference which required the expert to:

- Review the newly drafted Nepal food safety policy and outline what elements of the policy need to be reflected in the revision of the Nepal Food Act;
- Conduct a mission to Kathmandu and consult with FAO Nepal officers on the context and background to the food safety policy and issues of concern to the Government of Nepal and relevant stakeholders;
- Conduct a one-day national stakeholder consultation to discuss the incorporation of the policy into Nepal's relevant legislation, and identify immediate action points;
- Make recommendations on how to operationalize the policy and relevant legislation; and
- Develop an in-depth consultancy report on the way forward and possible needs for future additional FAO technical assistance.

2 Food safety context and recent developments

2.1 Food safety context

The food safety situation in Nepal has been well laid out in other expert reports by FAO and other development partners, and some of these reports are very recent. This report does not discuss Nepal's food safety context in detail; nonetheless, a brief overview will help set the stage for the analysis and recommendations that follow.

The main strengths of Nepal's food safety system are its highly educated and motivated governmental officers; its committed and engaged consumer sector; a fairly comprehensive legislative framework for food, even if some laws date back several decades and others will need updating in light of the ongoing decentralization, shift to a federal system, and changes to international reference standards; and motivated government leadership committed to transforming Nepal's food safety sector. The main food safety challenges in Nepal include inadequate hygiene and sanitation in restaurants and other entities selling food for consumption; lack of compliance with Good Agricultural Practices (GAP), Good Hygiene Practices (GHP), and Good Manufacturing Practices (GMP); weak control over use of pesticides and veterinary drugs, leading to residues in agricultural produce and animal products; minimal regulation of food additives; and failure to control mycotoxins in certain foods and animal feeds. There are also current challenges linked to the ongoing decentralization, such as the need to staff and supply the new planned regional offices and laboratories and the need to overhaul numerous pieces of legislation affected by the restructuring.

2.2 Policy, law, and institutions

On the policy level, the National Agriculture Policy dates to 2004, the Agricultural Development Strategy (ADS) dates to 2015, and the Trade Integration Strategy (TIS) dates to 2016. The TIS is designed to strengthen the enabling environment for trade and foster exports of priority agricultural products, while the ADS covers a variety of issues including food safety. Among other provisions, the ADS proposes that Nepal adopt and

implement internationally recognized food quality and safety standards, strengthen surveillance systems, and establish an autonomous and central Food Safety Authority.

Legislation regarding food safety and quality in Nepal currently consists of, *inter alia*, the Food Act (1966) and Food Regulations (1970); Consumer Protection Act (1998) and Rules (2000); Slaughterhouse and Meat Inspection Act (1998) and Rules (2001); Directive on Export-Import Inspection and Quality Certification (2006); Regulations on Dietary Supplements (2016); and Directives on Safety and Quality of Meat Processing (2016), Drinking Water (2017), and Food Service Establishments (2017). Other legislation covers licensing of businesses, including food businesses, and other more tangential issues.

Institutionally, the major player in the food safety sector is the Ministry of Agricultural Development's DFTQC, which monitors food safety and food quality and enforces food-related legislation. Although there are other actors in the food safety area, Nepal sees only a few disputes between ministries involved in the control of food safety while DFTQC remains in the lead role for food safety and quality. This is a positive feature of Nepal's system that distinguishes it from many other countries; and the country will benefit from this feature for the ongoing smooth transition to the federal decentralized system.

In addition, should Nepal later decide to transform DFTQC into a centralized Food Safety Authority as recommended in the ADS, DFTQC's wide acceptance as the leader in food safety should make that transition both feasible and orderly. On the other hand, with the consolidation of some ministries and the staggering number of institutional changes coming, due to the implementation of the federal system, there is some uncertainty about the future institutional set-up and the interrelationships among them. All of this are recommended to be examined in more detail when the federal system has been implemented in full.

2.3 Recent developments

Nepal joined the World Trade Organization (WTO) in 2004, which means that its legislation is required to conform to the international standards recognized by the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), which officially refers to standards and texts developed by the Codex Alimentarius Commission for food safety matters.

Political instability reigned in Nepal for most of the last dozen years, culminating in the abolition of the monarchy in 2006 and the adoption of a new constitution in 2015. The constitution enshrines federalism, although the implementing legislation needed to decentralize the government's activities to put in place the federal system is still being prepared and adopted. During the expert's mission to Nepal, it became clear that the process is very much under way, and there are numerous questions still outstanding in the food safety area. In particular, the government is still actively deciding how to assign various food safety activities to the three levels of government (central, regional, or local). For example, there was a Council of Ministers meeting convened during the very week of the FAO mission. This state of flux became apparent during the early days of the mission, requiring the DFTQC, FAO, and the expert to make some adjustments to the planned activities, which are discussed in the next section.

3 Scope of the work

During the mission, the expert held a series of meetings on food safety policy and the pending institutional reforms being undertaken in Nepal, and the list of persons interviewed/met is attached as Annex 1. Interlocutors included the DFTQC, Department of Livestock Services (DOLS), Department of Agriculture, Plant Protection Directorate (PPD), representatives of the private sector, the Department of Trade and Commerce, the Chamber of Commerce, consumer groups, and other agencies and organizations.

In light of the uncertainty surrounding the government's decentralization plans, the fluid political environment, and the brevity of the mission, it was agreed among DFTQC leadership, FAO Nepal, and the expert that the mission would not make specific recommendations regarding food legislation but rather would help guide the government's decision making on which activities to decentralize in the new federal system. This is because without knowing which governmental level institutions would exercise which food safety activities, it would be

impossible to recommend what the legislation should say. The legislative recommendations will have to wait until early 2018 when the government decisions about assignments of responsibility are completed.

Accordingly, the team capitalized on the timing of the FAO mission and the planned stakeholder consultation to collect and disseminate the views of the governmental and non-governmental experts involved in food safety in Nepal, so as to provide the most up-to-date recommendations to the government on the decentralization process. This would ensure that the decentralization decisions would continue to be based on real food safety administration expertise and would also remain grounded in reality. The decision to involve Nepali governmental, non-governmental, and consumer representatives in formulating the recommendations also cultivated a sense of ownership in the process of decentralization to a federal system, fostering more compliance with the new set-up once it is in place.

4 Stakeholder consultation

4.1 Consultation overview

The mission culminated in a stakeholder consultation held on 20 December 2017. Approximately 40 participants attended, drawn from various public and private entities with an interest in food safety. The list of participants is attached as Annex 2 and the agenda of the consultation is attached as Annex 3. The first part of the consultation consisted of presentations on the current institutional setup for food safety and planned decentralization reforms, while the second part of the consultation saw participants divided into three working groups. The first working group formulated recommendations on which governmental food safety activities should be undertaken at which level (e.g., federal, regional, or local); the second working group made concrete recommendations for how to formally include consumers and consumer representatives in Nepal's food safety system; and the third working group identified gaps, overlaps, and needed changes in the institutional framework for food safety activities in the country.

4.2 Outputs of the stakeholder consultation

As noted above, when it became apparent that the government was already well under way implementing and operationalizing decentralization, the DFTQC representatives and FAO agreed at the outset of the expert's mission that the stakeholder consultation would not focus on the draft food safety policy or legislation, but rather would provide support to the government in planning for the decentralization under the new federal system. The purpose of the stakeholder consultation was therefore fixed as follows: "to distil the collective wisdom of experts involved in food safety in Nepal and prepare recommendations for the government as it implements the federal system." The three working groups, working under the guidance of the FAO expert and group leaders, provided analysis and recommendations. The results of the working groups are set out in the next section.

Group 1: Allocation of decentralized activities in the federal system

Group 1 addressed the following question: *which governmental food safety activities should be federal/central and which should not?* The following Table sets out the results, with the various governmental food safety activities categorized in the left column and specified in the second column. The right hand columns indicate whether the activity should be carried out at central/federal, provincial, or local level.

Table 1: Recommendations for Assignment of Food Safety Responsibilities				
	Activities	Central/Federal	Provincial	Local
Policy Level	Policy Formulation	***		
	Policy Analysis	***		
	Acts and Regulations	***		
	Standards/Guidelines	***		
	Establishment and Operation of Food Council	***		
Implementation	Monitoring of Food Safety Functions at Provincial and Local Levels	***	***	
	Registration, Monitoring, and Surveillance of Food Business Operators	***	***	***
	Operational Dispute Settlement	***		
	Coordination with Development Partners	***		
	Coordination with Other Government Organizations	***	***	***
	Coordination with Non-governmental Organizations	***	***	***
	Coordination with International Agencies such as Codex, INFOSAN, etc.	***		
Service Level	National Food Reference Laboratory	***		
	Service-Providing Laboratory		***	***
	Food Inspection, Certification, and Quarantine for Import and Export	***		
	Licensing of Food Business Operators	***	***	***
	SPS Enquiry Point and Codex Contact Point	***		
	Monitoring and Inspection of Food Business Operators	***	***	***
	Education and Awareness	***	***	***
	Research and Development	***	***	
	Emergency Preparedness and Alerts	***	***	
Human Resources and Capacity Building	Appointment and Management of Food Safety Officers, Public Analysts, etc.	***	***	
	Capacity Enhancement Activities (Academic/Trainings etc.)	***	***	
	Skill Development	***	***	
	Risk Analysis	***		
	Analytical Skills	***		
	Inspection		***	***
	Food Epidemiology Surveillance	***	***	***
Database	Generating Food Epidemiology Data and Others	***	***	***
Food and Nutrition	Research and Development	***	***	
	Dissemination/Extension		***	***
Other Activities	Registration and Monitoring of Food Inspection Bodies and Food Testing Laboratories in the Private Sector	***	***	
	Formation of Scientific Coordination Body	***		

Notes:

- 1) Although the focus of the mission (and the stakeholder consultation) was food safety, the working group also addressed some activities including nutrition and food quality, and this is because DFTQC currently exercises control over these activities.
- 2) The working group indicated that any activities that the group did not specifically list in this table are reserved for the federal government.

Action items in the above table could be taken into considerations by the Government of Nepal as it assigns food safety activities under the decentralized federal system.

Group 2: Involvement of consumers in food safety

The task of Group 2 was to discuss involvement of consumers and consumer representatives in Nepal's food safety system. Specifically, the group was asked: *what are some concrete recommendations for how consumers could be involved more formally in the food safety system under the new structure?* The results are as follows: The first recommendation is that the government should establish a **Consumer Protection Council**, a formal body that would act as a bridge between government and consumer groups, preferably down to the ward level. The council would be comprised of food safety experts, veterinarians, consumer forums, and other consumer representatives. The council would look at food safety issues arising in the country, and would also be involved in conducting public awareness/extension. The formal body would be legally accountable and would support the government in consumer education, raise issues of concern to consumers, conduct consumer training, carry out surveys, and develop standards. The council would also coordinate with the formal structures established at the province and federal levels for issues related to intra-province or inter-province matters. An alternative recommendation is that the government could establish a **Consumer Alliance**, which would be recognized by the federal and provincial governments and by local governments as needed. During the formulation of policy or its implementation, this alliance – or federation – would be involved at the various levels of government.

Finally, the group recommended that government provide **funding** for consumer forums to raise consumer awareness of food safety issues. Among the tools that could be set up, if appropriate funding were available, are:

- A toll-free hotline
- Direct mail
- A consumer information desk
- A consumer information system
- Consumer education in school curricula

The action points arising from Group 2 are for the government to adopt one of the formal means of involving consumers in the food safety system, and also to supply it with adequate funding.

Group 3: Challenges facing Nepal's food safety situation and national food control system

Group 3 was tasked with identifying the challenges facing Nepal's food safety system. Specifically, the group was asked: *What are the challenges facing Nepal's food safety system and what solutions do you propose?*

At policy level, the group identified the following challenges:

- Inadequate understanding of food safety issues in government policies, e.g., National Agriculture Policy, ADS
- Lack of priority placed by government on food safety issues
- Absence of a systems approach to food safety in existing regulations including GAP, GMP, and Hazard Analysis Critical Control Point (HACCP).
- Need for food safety legislation to be updated and harmonized with international standards
- Absence of a comprehensive legal framework
- Inadequacy/absence of technical regulations on food safety issues

Note: Some of the working group's points may contradict the expert's assertion that Nepal has a fairly comprehensive legislative framework for food. The group's points may be affected by the tendency to think that legislation is weak since it is old, but this is not necessarily the case. Generally, most food safety problems, whether in developing or developed countries, do not arise from absent or weak legal provisions but rather from failures of implementation.

At institutional level, the working group identified these challenges:

- Absence of a network of organizations involved in food safety
- Insufficient capacity on the part of government officials (in laboratory testing, inspection)
- Inadequate or irrational budget allocations for the food safety system
- Weak SPS compliance
- Duplication of effort among institutions working in food safety
- Lack of coordination
- Ineffective implementation of existing food safety regulations

At the implementation and enforcement level, the group indicated the following gaps:

- Weak laboratory services
- Inadequate human resources
- Absent or inconsistent standards and technical regulations
- Low level of consumer awareness of food safety
- Insufficient surveillance system
- Uncontrolled food imports

The action points arising from Group 3's work consist of the following:

At the policy level, the Government of Nepal is recommended to:

- Adopt a clearly defined food safety policy
- Update and harmonize the current legal/regulatory framework
- Encourage cooperation among the private sector, research institutions, and cooperatives in food safety

At the institutional level, the Government of Nepal is recommended to:

- Develop effective surveillance
- Establish a national reference laboratory
- Ensure effective implementation of current policies and regulations
- Build capacity in inspection and laboratory testing
- Extend networks of those working in food safety
- Develop an effective coordination mechanism

Finally, at the implementation and enforcement level, the group recommended that the Government:

- Clearly defines roles and responsibilities of all those acting in the food safety system
- Strengthens the single window ("one-stop shop") system
- Provides adequate resources (staff as well as infrastructure), including laboratory facilities, to enable officials to adequately safeguard food safety

5 Review of draft food safety policy

5.1 Current status

One of the expected output of the expert's mission was a review of the draft food safety policy initially developed by DFTQC and subsequently updated by three national experts funded by USAID and the International Food Policy Research Institute (IFPRI). The expert received comments from some stakeholders suggesting that the policy reform process may have been less inclusive than hoped for. The suggestion was made that the concerned institutions, partners, and stakeholders were only consulted at a late stage. It was observed that the process left the impression that some stakeholders were only consulted after the fact. It is the expert's experience that where policy or legislation is being developed, feelings of exclusion during a

reform process can lead to resistance to the new scheme and a desire not to comply. To foster a sense of ownership and compliance, it is always advisable for funders and reformers to establish a committee made up of various stakeholders to lead and guide the reform process. It may be a time consuming process, however it would avoid the potential disputes and aforementioned resentments.

In the end, the draft food safety policy that arose from the policy reform process is adequate, although it could bear some limited improvements, as discussed more fully below. Fundamentally, a policy, while useful for the government, is not essential. What is more important is the legislation, since that is what will actually guide the implementation of food safety activities in the new federal system. While ideally a top-notch policy would first be agreed upon and then be operationalized into a suite of good legislative tools, the more important feature is good legislation. This is because the policy is not binding and because the legislation can include even issues that do not appear in the policy.

DFTQC, with FAO support, is able to tackle the legislative needs in 2018. By early 2018, the policy decisions, both those included in the food safety policy and those being made regarding allocation of responsibilities in the federal system, will have been completed. The draft food safety policy has now apparently been reviewed by officials of the Nepal government and may be on the point of being adopted. Nonetheless, the following comments are provided in case they are timely.

5.2 General comments

The policy is quite comprehensive as it lays out the context for food safety and recent developments. It also mentions the new constitutional provisions relating to food, including the right to food and the protection of consumers; and stresses the importance of various obligations on the Government of Nepal due to its membership in the WTO.

As a more general matter, the structure of the draft policy is confusing and repetitive. The fact that the policy requires frequent internal road maps (pointing the reader back to, and linking with, objectives) weakens the organization. The numbering system is found difficult to follow compared to the earlier draft prepared by DFTQC, which was structured by topic. The more important issue is that there are a few concepts and provisions missing, which are discussed in the next subsection.

5.3 Specific comments

Absence of guidance on federalism

A key issue is that the draft food safety policy does not take into account the institutional changes that are being implemented now that there is a new constitution and Nepal is a federal system. For example, Section 11.5.8 mentions offices in provinces, but it provides no guidance, simply stating that “An effective and reliable inspection and monitoring system shall be adopted providing sufficient resources, equipment, logistics including the establishment of offices in the federal, provincial and local levels, in order to make the regulation of the food safety and quality control more effective ...).” The same issue arises with Section 10.1.4, which says that the system for monitoring the safety and quality of food shall be arranged “by distributing the jurisdiction among the federal, provincial, and local level.” Section 12 (Institutional Set-up) is also vague, providing little guidance other than listing the sorts of activities that should be carried out at the central level and indicating that DFTQC should maintain its role in the management of food safety and quality control, with DOLS and the Department of Commerce exercising supporting roles and coordination required with other entities.

It would have been useful for the policy to outline the benefits and goals of an integrated federal system. The hope for an effective federal system is that it will: 1) avoid duplication of food safety activities (including inspection, data collection, education); 2) follow a common risk-based approach to prioritize food safety activities; and 3) allow the country to meet minimum standards in various areas at all levels of government (e.g., collection, use, and reporting of data; equivalency of laws and regulations and their implementation; inspection procedures and training; food-borne disease investigations).

The challenge is to ensure integration despite food safety activities being dispersed across three levels of government. The policy does have a few mentions of the importance of integration, such as in 10.4.3, which

provides that in case of outbreak, coordination with the Ministry of Health will be needed, as will “due involvement of different agencies working in the field.” Other key areas in need of integration are laboratory operations, information sharing, and establishment of national criteria for food safety programs.

Missing concepts

Concepts missing from the draft food safety policy are hunger, food security, and drinking water. In addition, the policy does not mention or embrace the concept of One Health, or biosecurity, or any other term to capture a comprehensive approach to animal and plant life and health and food safety.

There are also no references to the importance of coordination with other policies, such as price supports, nutrition policy, and agricultural policy. With respect to implementation of food safety activities, the draft food safety policy does not stress the importance of fostering producer responsibility for safe food rather than focusing on end product testing.

Insufficient emphasis on key elements

Except for one brief mention, the policy does not indicate the importance of traceability for food safety. Similarly, the references to research and development focus mostly on food production, not agricultural research. With reference to emergencies, the draft food safety policy simply says that DFTQC has “started a rapid alert and emergency response program.” The policy should outline the importance of developing systems to ensure that safe food is available in times of emergencies and disasters (both natural and of human origin, including bioterrorism). The policy is also vague on accreditation of laboratories, with just a brief mention of “due accreditation” The policy should make clear that DFTQC should establish a system of accreditation, including allowing private labs to operate as needed.

Inconsistent policies regarding food safety competent authority

The draft food safety policy provides inconsistent guidance on the concept of establishing a centralized food safety authority. Although Section 10.1.4 says that the existing DFTQC shall “gradually” be developed as a Food Safety and Quality Control Authority, Section 11.1.2 is unequivocal, stating that “necessary infrastructures shall be arranged for the establishment of an autonomous/independent Food Safety and Quality Control Authority for the execution of food safety and quality control.” Chapter 12 then goes into more detail, in a more discursive format (unlike the numerical provisions in the rest of the policy), explaining why establishment of a central food safety authority is likely not feasible at this stage, and so it should be done in a stepwise fashion. But the expert’s consultations with government representatives during the mission revealed that there are some officials who believe that because the ADS predates the shift to federalism, its recommendations regarding a food safety authority can be ignored. This will have to be decided by the Government of Nepal.

Unnecessary provisions

Some provisions in the policy read as if they are a wish list by DFTQC on what training and other capacity building opportunities its staff would like to receive. Although it is appropriate for the food safety policy to encourage staff training and skills building, it is unusual to see a specific mention of study tours in the draft policy (Section 11.2.8), and it is dubious that now would be a good time to establish an in-service training center for DFTQC staff (11.2.11) or create scholarships (11.2.13), given that the government is using its limited resources to create numerous new offices and laboratories and provision them with adequate human and other resources so as to implement the federal system.

6 Recommendations

6.1 Recommendations for food legislation

As should be clear from the preceding discussion, there will be extensive legislative changes required to take account of the new federal system. In addition to revisions at federal level, the various lower-level government units will also need new legislation to authorize them to implement food safety activities. For these reasons, it

is the expert's strong recommendation that FAO support a local lawyer to work extensively over the next 2-6 months to prepare a comprehensive legislative framework for food across the three levels of government. As needed, the local lawyer, who will have the local knowledge but may have less international and comparative food safety knowledge, could be backstopped by the FAO Legal Office or its international experts. If funding is more available, an international legal expert with expertise in food safety and comparative experiences of other countries, could be engaged for 2-3 months alongside a national legal expert. This will ensure that the many legislative changes needed are completed in a short time frame and are both internally consistent and internationally appropriate.

A key benefit of conducting this comprehensive revision is that it will consolidate the existing legislation and eliminate unnecessary individual acts that seem to have originated from the disparate priorities of various donors over the last decade or two. These include the Iodised Salt Act, Mothers Milk Act, and other more recent laws. This is also an opportunity for the Government of Nepal to update definitions and concepts to reflect the consensus of the international community built up in the last several decades. New legislation will have its definitions drawn from Codex will incorporate principles that have been developed in the international arena. If the new federal system had not been implemented, Nepal could have relied on its existing legislation, which was adequate. There is a tendency among non-lawyers to believe that all that is needed to transform a country's food safety system is new legislation. Yet what is far more important than legislation itself is its implementation. Are there sufficient human and other resources to implement the system? Laboratory resources? Public education to understand food safety concerns? It is rare that a piece of parliamentary legislation is not sufficient to govern a food safety system. It may lack "modern" concepts but it can still serve as a perfectly adequate scaffolding for more detailed regulations to implement a comprehensive food safety system. Nonetheless, because Nepal needs new food legislation for other reasons, now is the perfect time to enact a comprehensive legislative framework that will reflect the new federal system and incorporate modern concepts of food safety.

Finally, the new legislation will reflect the principles of the new food safety policy, once it is finalized and adopted; it may be revised in line with FAO's recommendations and additional comments made in Section 3 of this report. These include integrating institutional arrangements for the efficient and effective management of the new federal food safety system; implementing a system of food traceability from production to consumption; instituting a formal risk analysis system to enhance food safety; and effecting behavioural change across Nepal, through heightened public awareness about food safety issues and incorporating food safety into school curricula.

6.2 Other recommendations

As noted, high-level meetings to decide on assigning food safety activities to different levels of government were taking place precisely during the time of the expert's mission. Thus in some respects, it appeared too late to make the following suggestion. Nonetheless, the expert stated to government interlocutors during the mission, and repeats here, the following: Although Nepal's new constitution does not mention food (which would lead one to conclude that food safety activities are therefore not one of the centralized activities), it does mention quarantine, which includes animal, plant, and human health and life under the WTO SPS Agreement. In addition, food is an important trade commodity, and DFTQC currently supports international trade by enforcing directives on exports, imports, and quality certification; signing bilateral agreements with regional partners; and developing standards to comply with Codex. For all of these reasons, there is a strong argument to be made that the Government of Nepal should centralize as many food safety activities as possible, while leaving to the decentralized units the many activities (set out in the table in Section IV of this report) that are better implemented at the decentralized level (such as issuing permits to food operators or market surveillance).

In addition to that basic recommendation, the expert recommends that the Government of Nepal implement the recommendations set out in Section 4 of this report as well as the following more general recommendations:

1. Fostering coordination among the various government entities involved in or tangentially related to food safety.

2. Promoting the adoption of management systems based on GHP, GMP, GAP, HACCP, and/or ISO 22000 in Nepal's agriculture and food sectors
3. Establishing systems to ensure traceability of food and feed, including imposing requirements on producers and outlining the obligations and roles of implementing agencies. The traceability systems should be reflected in the new legislative framework and should meet national, regional, and international standards.
4. Building laboratory capacity for surveillance, monitoring, and certification. Accredited laboratories are essential to support Nepal's exports. In addition to establishing and provisioning the new laboratories required under the federal system, the government should focus on upgrading relevant laboratories to meet required standards for accreditation.
5. Strengthening support for food trade, both with respect to domestic food trade as well as import/export controls and to meet the requirements of Nepal's international trading partners.
6. Strengthening risk analysis to comply with WTO requirements, including by building capacity of federal and lower level government agencies, laboratories, and research entities.
7. Strengthening the food-borne disease surveillance system, enhancing the emergency preparedness system for food-borne disease outbreaks, and creating a more comprehensive database for food-borne related illnesses.
8. Participating actively in international standard-setting activities, such as Codex and the World Organisation for Animal Health (OIE), and ensuring appropriate follow-up and communication with other ministries/agencies on food safety issues.
9. Improving capacity and coordination in food safety research, to ensure that policy, food production, and trade decisions are underpinned by science.
10. Involving consumers in the food safety system, including by developing and implementing public awareness and education programmes on food safety, including schools.

Implementation of some or all of these recommendations will continue strengthening Nepal's food safety system for the 21st century.

6.3 Recommendations for FAO and other international organizations and donors

Nepal benefits from a variety of donors taking an interest in the food safety system; key donors have included FAO, WHO, UNIDO, Germany, Japan, and the European Union. With Nepal undergoing possibly its most wide-ranging and fundamental change to its food safety administration in its history, donor assistance is now even more urgently needed.

It appears that the design and delivery of prior assistance was weakened somewhat by a tendency on the part of individual donors to move ahead with individual assistance activities and projects (without coordinating), and a tendency on the part of the Nepal Government to accept all assistance offered. These do not necessarily lead to Nepal receiving the most necessary, the most timely, the most widely accepted, or the most integrated and well-planned assistance.

1. The first recommendation is to take advantage of the new government structure to revive, strengthen, or establish a strong donor coordination mechanism for Nepal's food safety structure. This donor coordination mechanism would bring all donors to the table for regular meetings to plan and coordinate.
2. The second recommendation is to ensure that the annual or biennial donor plans that arise from this donor coordination mechanism stem from and are linked closely to the Government of Nepal's own development plans. Annually, the Government will prepare its priority list and action plan, and then individual items on the action plan will be adopted and funded by various donors. "Items" in this case refers to laboratory infrastructure and supplies, training, expert advice, and so forth.
3. The third recommendation is for FAO not to wait for the clear donor coordination structure to be in place before continuing its legislative and institutional assistance. This is because FAO is already recognized as the leading source of international and comparative expertise on food safety legislation and food safety administration, and also because the need for new legislation and advice on the new administrative structures is immediate. As indicated earlier in this report, the Government of Nepal

was finalizing in December-January the allocations of responsibilities under the new federal system. This means that it is now time for new federal, provincial, and local legislation to set up the new administration, and so expert advice is urgently needed.

4. The fourth recommendation is for FAO to provide legislative assistance immediately. This could either be an international legal consultant based in Kathmandu for 2-3 months working alongside a local lawyer for 2-6 months; or a local legal consultant for 6 months to be backstopped closely by the FAO Legal Office. The choice will depend on funding and the preferences of the national counterparts, but either strategy should lead to a suite of updated laws and regulations to implement the new system. The lawyers would work closely with government stakeholders to revise the food safety legislative framework to reflect the new federal system, and to develop legislation for the lower level government entities. The new food safety legislation would comply with international standards. The legislation should also have strengthened penalties for non-compliance. These, along with the shift to producer responsibility, should strengthen the food safety system for Nepal's future.

Annex 1. List of persons interviewed/met by the expert

Dr Suroj Pokhrel, Secretary, Ministry of Agricultural Development
Dr Keshav Premy, Joint Secretary, Ministry of Livestock Development
Mr Sanjeev Kumar Karn, Director General, DFTQC
Ms Matina Joshi, Deputy Director General, DFTQC
Mr Purna Chandra Wasti, Senior Food Research Officer, DFTQC
Mr Mohan Krishna Maharjan, Senior Food Research Officer, DFTQC
Mr Kishor K.C. Senior Food Research Officer, DFTQC
Mr Santosh Dahal, Food Research Officer, DFTQC
Dr Bimal Nirmal, Director General, Department of Livestock Services
Dr Dilli Ram Sharma, Director General, Department of Agriculture
Mr Achyut Prasad Bhandari, Program Director, Plant Protection Directorate
Mr Purushotam Hada, Chief, National Plant Quarantine Office
Mr Pradip Maharjan, Executive Director, Agro Enterprise Center
Dr Tika Bahadur Karki, Department of Biotechnology, Kathmandu University
Mr Prem Lal Maharjan, President, National Consumer Forum
Mr Jyoti Baniya, President, Forum for Consumers' Right Protection Nepal
Mr Uttam Bhattarai, Adjunct Professor, College of Applied Food & Dairy Technology
Dr Dev Bhakta Shakya, Food Safety Expert
Mr Binod Saha, Assistant FAO Representative (Programme), FAO Nepal
Mr Arjun Thapa, National Programme Officer, FAO Nepal

Annex 2. List of participants by working group

Group 1

Mr. Uttam K. Bhattarai (College of Applied Food & Dairy Technology)
Dr. Huma Bokkhim (DFTQC)
Mr. Nawaraj Dahal (DFTQC)
Mr. Suman Dhital (DFTQC)
Dr. Susmita Gautam
Dr. Tika Bahadur Karki (Kathmandu University)
Ms. Jiwan P. Lama
Dr. Mahadev Prasad Pandel (Ministry of Agricultural Development)
Ms. Neera Malakar (DFTQC)
Ms. Bimala Neupane (DFTQC)
Mr. Bhim Prasad Pulami (DFTQC)
Dr. Shankar Shah (Department of Livestock Services)
Dr. Dev Bhakta Shakya (USAID Project)
Dr. Matina Joshi Vaidya (DFTQC)

Group 2

Dr. Anjir Man Singh Dangol (Consumer Eye Nepal)
Mr. Ganesh Dawadi (FAO)
Mr. Rabindra Jyakhwo (Bhaktapur Municipality)
Ms Bimala Khanal (Consumer Eye Nepal)
Mr. Hari Prasad Mainali (Consumer Rights Protection Forum)
Mr. Govinda Subedi (National Consumer Forum)
Dr. Atul Upadhyay (Nepal Food Scientists and Technologists Association)
Mr. Purna Chandra Wasti (DFTQC)

Group 3

Mr. Santosh Dahal (DFTQC)
Mr. Kishor K.C. (DFTQC)
Mr. Ratna Kumar Jha (National Plant Quarantine Directorate)
Mr. Gyanendra Prasad Mandal (DFTQC)
Mr. Digvijay Mishra (DFTQC)
Mr. Pravin Ojha (National Agricultural Research Center)
Mr. Hemanta Kumar Parajuli (DFTQC)
Mr. Krishna Prasad Rai (DFTQC)
Mr. Rajiv Das Rajbhandari
Mr. Kshitij Shrestha (DFTQC)
Mr. Amit Bhushan Suman (DFTQC)

Annex 3. Stakeholder consultation agenda

Ensuring Food Safety for Nepal's Future

20 December 2017

Venue: Hotel Greenwich Village, Bakhundol, Lalitpur

Time	Item of the Programme
08:15 - 09:00	Registration and Breakfast All Participants Assemble in the Hall
09:00 - 09:15	Opening Remarks By the Chairperson Mr. Sanjeev Kumar Karn, Director General (DG), DFTQC
09:15 - 09:30	Purpose of the Consultation: Distill the Collective Wisdom of Experts Involved in Food Safety in Nepal, And Prepare Recommendations for the Government as it Implements the Federal System Mohan Krishna Maharjan, DFTQC
09:30 - 09:45	Explanation of Tasks of 3 Working Groups, including Roles of Facilitator and Rapporteur, and Division into Groups Jessica Vapnek, FAO Expert
09:45 - 11:15	Working Group Sessions Coordinated by Ganesh Dawadi, Suman Dhital, and Mohan Maharjan
11:15 - 11:30	Coffee Break
11:30 - 12:45	Plenary Session Presentations by Group 1, 2, and 3, each one followed by Q&A
12:45 - 13:15	Wrap-Up of Working Group Recommendations, and Lessons Learned from Other Countries Jessica Vapnek, FAO Expert
13:15 - 13:30	Closing Remarks Chairperson Mr. Sanjeev Kumar Karn, DG, DFTQC
13:30 - 14:00	Lunch

