



JOINT FAO/WHO FOOD STANDARDS PROGRAMME
FAO/WHO COORDINATING COMMITTEE FOR AFRICA
Twenty-fourth Session
Virtual

5 – 9 and 13 September 2022

**PROPOSED DRAFT GUIDELINES FOR DEVELOPING HARMONIZED FOOD SAFETY LEGISLATION
FOR THE CCAFRICA REGION**

REPORT OF THE VIRTUAL IN-SESSION WORKING GROUP

The In-Session Virtual working Group was held on Tuesday 6th and Wednesday 7th September 2022, beginning from 9a.m. to 10:30a.m CET.

The In-Session meeting went through the track changed document uploaded on the CCAFRICA24 page as CRD03X, section by section and made amendments as appropriate. The following amendments were made during the session:

- i. Amendment of text in Introduction No. 9 of previous text to read “To attain a robust and effective food control system, there is a need for CCAFRICA member countries to invest in verification capabilities that provide the assurance of compliance to food safety legislation such as human resources, information and communication technologies (ICT) and laboratory infrastructure among others”
- ii. Amendment of the definition on food chain from the previous provided from ISO 22000:2018, to text from CXC 61-2005. This definition includes “feed” which CCAFRICA members requested inclusion. Previous text was deleted. The amendment of the reference was made appropriately.
- iii. Change of Principle 1 to read “**Protection of Consumers’ Health**” instead of Consumer Protection
- iv. Further in Principle 1, CCAFRICA members agreed to delete the text “.. and aim at the prevention of fraudulent practices, the adulteration of food and any other practices which may mislead the consumer”. CCAFRICA Members felt that these issues were subject of ongoing work in the CCFICS and should be excluded.
- v. In principle 2, CCAFRICA Members declined the inclusion of “The concept of food chain can integrate the issue of food sustainability“ since the proposal to include sustainability was beyond the scope of the guidelines, as this also included aspects of food security and others.
- vi. In Principle 8, amendment of the text in the paragraph 17, to read “When drafting/updating national food safety legislation, CCAFRICA member countries should consider relevant Codex texts as well as WTO principles, as appropriate”. This would be consistent with the meaning and referencing the WTO principles instead of recommendations and guidelines, since this was not accurate.
- vii. Further in Principle 8, amendment of following paragraph 18 to replace the word may instead of should. It reads “In absence of specific national food safety regulations, Codex texts may be considered”.
- viii. In the References, No. 1, full details of the Author and year of publication was included (“FAO, 2005”).
- ix. Change of Reference 3 from “Food Safety Management System. ISO 22000:2018”, to “CXC 61-2005, Code of practice to minimize and contain food-borne antimicrobial resistance”. The change was made to replace earlier definition of food chain to use Codex text that included reference to feed.

Recommendation

Having incorporated the changes and finalized amendment, it is the recommendation of the Electronic Working Group that the proposed draft guidelines to support the development of food safety legislation for the CCAFRICA Region be forwarded by the Committee for adoption at step 5/8 (Appendix I).

REVISED CRD03 BY IN-SESSION WORKING GROUP**PROPOSED DRAFT GUIDELINES FOR DEVELOPING HARMONIZED FOOD SAFETY LEGISLATION
FOR THE CCAFRICA REGION****(UPDATED AFTER VWG – CLEAN version)****SECTION 1 - INTRODUCTION**

- (i) Food safety is an essential component of sustainable development and contributes towards protection of public health, poverty reduction, food security, and safeguarding the environment. Food safety legislation among CCAFRICA member countries face significant challenges including but not limited to, inadequately addressing current and emerging food safety issues, fragmented in different government institutions and low investment for effective implementation. This may create lapses among food control enforcement agents and food business operators. Consequently, enforcement of food safety legislation has some difficulties, hence compromising efforts towards consumer protection against fraudulent practices and unsafe food products. Such enforcement challenges result in production and trade of substandard food products leading to rejections of products in the national, regional and international markets.
- (ii) Globalization of food trade compels governments to develop legislation that is aligned to regional and international standards that protect consumer health, ensure fair practices in food trade and promote integrated and innovative food safety systems.
- (iii) African governments are committed to promoting and boosting inter/intra-regional trade in agricultural commodities as emphasized in the Malabo Declaration commitment of June 2014. In this regard, it is important to harmonize food safety policies, standards and legislation as well as build the capacity of competent authorities and relevant stakeholders to ensure the protection of public health and facilitate fair practices in food trade. Food safety legislation varies among CCAFRICA member countries, and existing differences in regulatory frameworks can have negative impacts on regional and international food trade.
- (iv) Guidelines for developing harmonized food safety legislation for the CCAFRICA region, have been developed to provide guidance to CCAFRICA member countries on development and/or updating their food safety legislation. This will enable member countries to strengthen their food safety legislation and food control systems as well as develop harmonized policies, standards and legal frameworks.
- (v) These guidelines are developed in line with Codex texts and other relevant regional and international documents.
- (vi) These guidelines contribute to regulation of the food chain to assure food safety while facilitating fair practices in food trade.
- (vii) These guidelines serve as a basis for development of national or regional food safety legislation, to support inter/Intra Africa trade as envisioned in the African Continental Free Trade Area (AfCFTA, 2019) Agreement.
- (viii) These guidelines provide for the identification of stakeholders concerned with food safety and define their roles and responsibilities for effective implementation of harmonized food safety legislation.
- (ix) To attain a robust and effective food control system, there is a need for CCAFRICA member countries to invest in verification capabilities that provide the assurance of compliance to food safety legislation such as human resources, information and communication technologies (ICT) and laboratory infrastructure among others.
- (x) These guidelines should be used together with other existing Codex texts¹ and/or other relevant national, regional and internationally recognized documents.

¹ Principles and Guidelines for National Food Control Systems (CXG 82-2013); General Principles of Food Hygiene (CXC 1-1969); Principles for Food Import and Export Inspection and Certification (CXG 20-1995); Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations (CXG 19-1995); Principles and guidelines for the exchange of information between importing and exporting countries to support the trade in food (CXG 89-2016); Principles and Guidelines for Monitoring the Performance of National Food Control Systems (CXG 91-2017); Guidelines for Food Import Control Systems (CXG 47-2003).

SECTION 2 - SCOPE

1. The scope of this Guideline is to provide guidance to CCAFRICA member countries in developing or updating food safety legislation along the food chain including food traded nationally, regionally, and internationally.

SECTION 3 - PURPOSE

2. The purpose of this Guideline is to;
 - i. enable CCAFRICA member countries to develop harmonized food safety legislation in order to strengthen science-based food control systems;
 - ii. provide the general concepts and principles governing food safety legislation that will lead to the establishment of well-coordinated national and regional food control systems; and
 - iii. promote an integrated approach to food safety along the entire food chain and facilitate inter/intra-African food trade.

SECTION 4 - DEFINITIONS

3. The following definitions are included to establish a common understanding of the terms used in this document unless the context otherwise requires:
 - i. **Competent Authority** – the government authority or official body authorized by the government that is responsible for setting of regulatory food safety requirements and/ or for the organization of official controls including enforcement (CXC 1-1969)
 - ii. **Consumer** means persons and families purchasing and receiving food in order to meet their personal needs (CXS 1-1985).
 - iii. **Equivalence:** the capability of different inspection and certification systems to meet the same objectives (CXG 26-1997)
 - iv. **Food** means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of “food” but does not include cosmetics or tobacco or substances used only as drugs (Codex Procedural Manual)
 - v. **Food business:** means any undertaking, whether for profit or not, public or private, carrying out any of the activities related to any stage of production, processing and distribution of food².
 - vi. **Food business operator (FBO):** The entity responsible for operating a business at any step of the food chain (CXC 1-1969).
 - vii. **Food chain:** Production to consumption continuum including, primary production (food-producing animals, plants/crops, feed), harvest/slaughter, packing, processing, storage, transport, and distribution to the point of consumption (CXC 61-2005).
 - viii. **Food control:** A mandatory regulatory activity of enforcement by national or local authorities to provide consumer protection and ensure that all food during production, handling, storage, processing and distribution are safe, wholesome and fit for human consumption; conform to food safety and quality requirements; and are honestly and accurately labelled as prescribed by the law³.
 - ix. **Food Control System** - the integration of a mandatory regulatory approach with preventive and educational strategies that protect the whole food chain⁴
 - x. **Food safety** is the assurance that food will not cause adverse health effects to the consumer when it is prepared and/or eaten according to its intended use (CXC 1-1969)
 - xi. **Legislation** includes acts, regulations, requirements or procedures, issued by public authorities, related to foods and covering the protection of public health, the protection of consumers and conditions of fair trading. (CXG 47-2003)
 - xii. **Official control** - any form of control that the competent authority performs for the verification of compliance with food law, including animal health and animal welfare rules⁵.

² Food control system assessment tool, FAO/WHO 2019.

³ Food control system assessment tool, FAO/WHO 2019.

⁴ Food control system assessment tool, FAO/WHO 2019

⁵ Food control system assessment tool, FAO/WHO 2019

⁷ Working Principles for Risk Analysis for Food Safety for Application by Governments (CXG 62-2007).

- xiii. **Requirements** are the criteria set down by the competent authorities relating to trade in foodstuffs covering the protection of public health, the protection of consumers and conditions of fair trading. (CXG 47-2003)
- xiv. **Risk** - a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard (s) in food (Codex Procedural Manual: Definitions of Risk Analysis Terms Related to Food Safety).
- xv. **Risk Analysis** - a process consisting of three components: risk assessment, risk management and risk communication. (Codex Procedural Manual))
- xvi. **Risk assessment** means a scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization. (Codex Procedural Manual)
- xvii. **Risk management** means the process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options. (Codex Procedural Manual)
- xviii. **Risk communication** means the interactive exchange of information and opinions throughout the risk analysis process concerning risk, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions. (Codex Procedural Manual)

SECTION 5 – PRINCIPLES OF A FOOD SAFETY LEGISLATION

- 4. In developing and/or updating food safety legislation, member countries should be guided by the principles in these Guidelines and by their legal drafting, practices, and be cognizant of the needs of the country.
- 5. It is recommended that the process of developing and /or updating a food safety legislation should be open to public consultation with all stakeholders while respecting legal requirements to protect confidential information as appropriate.
- 6. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information. Member countries should seek to obtain the scientific information necessary to reduce uncertainty and justify provisional measures.
- 7. A national food safety legislation should be based on the following principles:

PRINCIPLE 1 - PROTECTION OF CONSUMERS' HEALTH

- 8. Food safety legislation should have provisions for protecting the health of consumers as a top/primary priority.

PRINCIPLE 2 – THE FOOD CHAIN APPROACH

- 9. The food safety legislation should cover the entire food chain from primary production to consumption.

PRINCIPLE 3 - ROLES AND RESPONSIBILITIES

- 10. The administrative provisions of food safety legislation should clearly define roles and responsibilities of the stakeholders. These roles and responsibilities may be as follows:
 - a. The food business operators have the primary role and responsibility for managing the safety of their products and compliance with requirements relating to those aspects of food under their control.
 - b. The government has the role and responsibility to establish and maintain up to date legal requirements and verify that food business operators comply with food safety legislation.
 - c. Consumers have a role and responsibility in managing food safety risks including products under their control and where appropriate they should be provided with information on how to achieve this.
 - d. Academic and research institutions have a role in contributing to a food safety legislation, as they are a source of expertise to support the risk based and scientific foundation of such a system.

⁸Equivalence refers to Article 4 of the WTO SPS Agreement and as outlined in Decision on the Implementation of Article 4 of the agreement on the Application of SPS Measure (Equivalence) (G/SPS/19/Rev. 2)

PRINCIPLE 4 – SCIENCE BASED LEGISLATION

11. Food safety legislation should be informed by sound scientific evidence following the risk analysis approach.
12. Risk analysis principles should form the foundation on which food safety legislation is based. The legislation should make provisions for collecting data, scientific information and evidence. In formulating legislation, there should be focus on risk-based approach.⁷
13. Risk analysis should be applied consistently; open, transparent and documented; evaluated and reviewed as appropriate in the light of newly generated scientific data⁷

PRINCIPLE 5 - COOPERATION AND COORDINATION

14. The food safety legislation should provide for a mechanism for transparent and effective communication and coordination among the different institutions and organizations responsible for food safety along the food chain. Further, food safety legislation should have provisions to support food safety education, communication and training.

PRINCIPLE 6 – EQUIVALENCE⁸

15. The principle of equivalence should be provided for in the food safety legislation of CCAFRICA member countries. This recognition can apply at both the regional and international level. Mutual recognition, where applicable, should be applied to facilitate trade.

PRINCIPLE 7 - LEGAL/POLICY FRAMEWORK

16. Food safety legislation should be part of a robust national policy framework, and mechanisms for its regular review and updates should be provided for.

PRINCIPLE 8 - HARMONISATION

17. When designing a food safety legislation, CCAFRICA member countries should aim at the harmonized approach to facilitate inter/intra-African trade and protect consumer health
18. When drafting/updating national food safety legislation, CCAFRICA member countries should consider relevant Codex texts as well as WTO principles, as appropriate.
19. In absence of specific national food safety regulations, Codex texts may be considered.

SECTION 6 – ELEMENTS OF FOOD SAFETY LEGISLATION

20. Food safety legislation should be consistent with the legal drafting practices of CCAFRICA member countries upon which all other regulatory instruments/ subsidiary legislations are based.
21. The regulatory instruments should be designed with the specific purpose of consumer health protection and/or the promotion of fair practices in food trade.

The food safety legislation should have the following elements:*i. Title*

The food safety legislation should have a title which reflects the scope and purpose of the proposed legislation.

Examples:

- a) *An Act or a legislation of Parliament to make provision for the management of food safety ---- and for connected purposes*
- b) *Food safety Act/legislation on food safety*

ii. Citations/Introduction/preamble

The food safety legislation should contain an introductory statement that explains the purpose and implementation of the law.

Example: An Act of Parliament to make provision for the management of food safety matters.

iii. Interpretation of terms

It should provide a list of key terms and their definitions as used in the body of the legislation. The definitions should be aligned to internationally accepted texts as well as ensuring their clarity and without ambiguity.

iv. Objective of the food safety legislation

- v. The legislation should state clear objectives including the role of risk analysis. The objectives should include ensuring the safety of food intended for human consumption, prevention and control of food-borne diseases, facilitation of food trade and contribution to the development of the agri-food sector/system.

Example: *The objectives of this Act are to provide for —*

- a) *management of safety of food of plant and animal origin including food-borne infections, contaminants, food-borne zoonoses and residues in food,*
- b) *establishment and regulation of facilities that process food,*
- c) *sanitary standards of food processing establishments*

vi. *Guiding principles*

The legislation should provide basic guidelines that will ensure the objectives of the law are achieved without introducing new challenges or conflict with existing legislation. The principles outlined in Section 5 may be considered as guiding principles in drafting the food safety legislation.

Other considerations may include, but not limited to integrity, impartiality, accountability, transparency fairness and conflict of interest especially in implementation of official food controls.

vii. *Enabling Provisions*

Depending on the country's legal practices, food safety legislation should define the nature and the limits of the powers to be exercised under it and designate the competent authorities in whom those powers are to be vested. The powers vested in the government or executive authority under these enabling provisions should relate to the formulation of rules for the implementation of the law and for the intervention of the authority in order to ensure that the laws and its accompanying regulations are being observed.

viii. *Administrative Provisions*

The legislation should contain a category of provisions that set up administrative structure(s) to carry out the activities necessary to enforce the law. For example, the law may establish single or multiple Food Safety Agency(ies); integrated food safety agency(ies) communication and coordination authority and/or any other appropriate agency.

ix. *Substantive Provisions*

The legislation should contain provisions relating to safety of food in the entire food chain. These include but are not limited to: risk based preventive approaches; food control requirements such as licensing, risk analysis, inspection, certification, monitoring and surveillance, hygiene requirements, prevention of fraudulent activities; food business operators' responsibilities, labelling, traceability and recall, import and export controls among others. The food safety legislation should make provision for a mechanism to facilitate performance of official controls e.g. fees, levies and charges for official control services rendered

x. *Enforcement Provisions*

The legislation should make provisions for ensuring compliance. This should include administrative actions, sanctions, seizure, inspection, prohibition and prosecution among others by enforcement agencies.

xi. *Offences and fines*

The legislation should provide and list the specific offences it covers, either by reference or in the sections providing for fines and penalties.

xii. *Regulations*

The legislation should have provisions for the development of regulations and other measures to support its implementation. The regulations should be guided by objectives of the Act.

xiii. *Miscellaneous provisions:*

The food safety legislation should make provisions for efficient implementation once the law comes into effect depending on the legal practice of the CCAFRICA member country. Such provisions may include *repeal, savings, transition, entry into force and consequential amendments.*

REFERENCES⁶

1. Perspectives and guidelines on food safety legislation with a new model food law, FAO, 2005
2. Patricia A Curtis., Guide to Food Laws and Regulations. 2nd Edition, (Wiley pubs.) 2013CXC 61-2005, Code of practice to minimize and contain food-borne antimicrobial resistance
3. Food safety and standards act 2006 along with rules and regulation 2011. Commercial law publishers of India, PVT Limited
4. FAO/WHO Guidelines for Developing a National Food Law, Annex 6. of Food and Nutrition Paper 76 entitled "Assuring Food safety and quality: Guidelines for Strengthening National Food Control Systems", 2003. "Working Principles for Risk Analysis for Food Safety for Application by Governments (CXG 62-2007).
5. Principles and Guidelines for National Food Control Systems (CXG 82-2013).
6. Codex Alimentarius Commission - Procedural Manual. 27 ed. (2019)
<https://www.fao.org/publications/card/en/c/CA2329EN/> Principles for Food Import and Export Inspection and Certification (CXG 20-1995)
7. Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification (CXG 26-1997)
8. Guidelines for Food Import Control Systems (CXG 47-2003) Guidelines for the Exchange of Information between countries on rejections of imported foods (CXG 25-1997)
9. Guidelines for the Development of Equivalence Agreements Regarding Food Imports and Export Inspection and Certification Systems (CXG 34-1999)
10. Guidelines for the Development of Equivalence Agreements Regarding Food Imports and Export Inspection and Certification Systems (CXG 34-1999)
11. Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Inspection and Certification Systems (CXG 53-2003)
12. General Principles of Food Hygiene (CXC 1-1969)
13. Code of Practice to Minimize and Contain Foodborne Antimicrobial Resistance (CXC 61-2005)
14. Working Principles for Risk Analysis for Food Safety for Application by Governments (CXG 62-2007)
15. Food Control System Assessment Tool, FAO/WHO 2019

⁶ The references are included for the purpose of transparency during drafting but would be removed when the guidelines are finalised

CRD 03 REVISED BY IN-SESSION VIRTUAL WORKING GROUP
PROPOSED DRAFT GUIDELINES FOR DEVELOPING HARMONIZED
FOOD SAFETY LEGISLATION FOR THE CCAFRICA REGION

(UPDATED – TC version)

SECTION 1 - INTRODUCTION

- (i) Food safety is an essential component of sustainable development and contributes towards protection improvement of public health, poverty reduction, increased food security, and safeguarding the environmental protection. Food safety legislation among CCAFRICA member countries face significant major challenges including but not limited to the extent that some existing legislation may be outdated, inadequately addressing current and emerging food safety issues, fragmented in different government institutions and low investment for effective implementation and fragmented. This may create lapses among food control enforcement agents and food business operators. Consequently, enforcement of food safety legislation has becomes some difficulties problematic, thus hence compromising efforts towards consumer protection against fraudulent practices and unsafe food products. This Such enforcement challenges also results in production production and trade of substandard food products leading to rejections of products in the national, regional and international markets, exports from the region.
- (ii) Globalization of food trade compels governments to develop food safety legislation that is aligned to regional and international standards, that assure protect consumer safety health, and ensure promote fair practices in food trade and promote integrated and innovative food safety systems.
- (iii) African governments are committed to promotinge and boosting inter/intraregional trade in agricultural commodities as emphasized in the Malabo Declaration commitment of June 2014. In this regard, it is important to harmonize food safety policies, standards and legislation as well as build the capacity of competent authorities and relevant stakeholders to ensure the protection of public health and facilitate fair practices in food trade. There are differences in the food safety legislation among CCAFRICA member countries with different regulatory frameworks which may affect regional and international food trade. Food safety legislation varies among CCAFRICA member countries, and existing differences in regulatory frameworks can have negative impacts on regional and international food trade
- (iv) Guidelines for developing harmonized food safety legislation for the CCAFRICA region, have been developed to provide guidance to CCAFRICA member countries in on development and/or updating their food safety legislation. This will enable member countries to strengthen their food safety legislation and food control systems as well as develop harmonized policies, standards and legal frameworks.
- (v) These This document guidelines are is developed in line with Codex texts and other relevant regional and international documents international documents.
- (vi) It will e These guidelines contribute to regulation of the food chain to assure food safety while facilitating fair practices in food trade.
- (vii) These gg guidelines may serve as a basis for development of national or regional fFood sSafety l legislation, to support inter/Intra Africa trade as envisioned in the African Continental Free Trade Area (AfCFTA, 2019) Agreement.
- (viii) This These guidelines provide for the identification of relevant food safety stakeholders concerned with food safety and outlinedefines their roles and responsibilities for effective implementation of harmonized food safety legislation.
- (ix) To attain a robust and effective food control system, there is need for CCAFRICA member countries to provide sufficient funding to enhance their capabilities in laboratory infrastructure, human resources and conformity assessment procedures among others.

To attain a robust and effective food control system, there is a need for CCAFRICA member countries to invest in verification capabilities that provide the assurance of compliance to food safety legislation such as human resources, information and communication technologies (ICT) and laboratory infrastructure among others.

(xi)

~~16-(x) These guidelines should be used together with other existing Codex texts⁷ and/or other relevant national, regional and internationally recognized documents.~~

~~iv. These guidelines should be used together with other existing Codex texts⁸ and/or other relevant internationally recognized guidelines.~~

SECTION 2 - SCOPE

1. The scope of this ~~G~~guideline is to provide guidance to CCAFRICA ~~members~~member countries in developing or updating food safety ~~legislation. The document covers guidelines on developing food safety legislations along~~legislation along the food chain including food traded nationally, regionally, and internationally.

SECTION 3 - PURPOSE

2. The purpose of this ~~G~~guidelines is to;

~~e)iv.~~ enable CCAFRICA member countries ~~to~~ develop harmonized food safety legislations in order to strengthen science-based food control systems;

~~e)v.~~ provide the general concepts and principles governing food safety legislation that will lead to the establishment of well-coordinated national and regional food control systems; and

~~f)vi.~~ promote an integrated approach to food safety along the entire food chain and facilitate ~~inter/intra-~~inter/intra-African food trade ~~by creating a harmonized framework for the development of food safety legislations.~~

SECTION 4 - DEFINITIONS

3. The following definitions are included to establish a common understanding of the terms used in this document unless the context otherwise requires:

~~xix. **Competent Authority** – the government authority or official body authorized by the government that is responsible for setting of regulatory food safety requirements and/ or for the organization of official controls including enforcement (CXC 1-1969)~~

~~xx. **Consumer** means persons and families purchasing and receiving food in order to meet their personal needs (CXS 1-1985).~~

~~xxi. **Equivalence:** the capability of different inspection and certification systems to meet the same objectives (CXG 26-1997)~~

~~xxii. **Food** means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of “food” but does not include cosmetics or tobacco or substances used only as drugs (Codex Procedural Manual)~~

~~xxiii. **Food business:** means any undertaking, whether for profit or not, public or private, carrying out any of the activities related to any stage of production, processing and distribution of food⁹.~~

~~xxiv. **Food business operator (FBO):** The entity responsible for operating a business at any step of the food chain (CXC 1-1969).~~

~~xxv. **Food Chain** – sequence of stages in the production, processing, distribution, storage and handling of a food and its ingredients from primary production to consumption (ISO 22000:2018)~~

~~Food chain: Production to consumption continuum including, primary production (food-producing animals, plants/crops, feed), harvest/slaughter, packing, processing, storage, transport, and distribution to the point of consumption (CXC 61-2005).~~

⁷ Principles and Guidelines for National Food Control Systems (CXG 82-2013); General Principles of Food Hygiene (CXC 1-1969); Principles for Food Import and Export Inspection and Certification (CXG 20-1995); Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations (CXG 19-1995); Principles and guidelines for the exchange of information between importing and exporting countries to support the trade in food (CXG 89-2016); Principles and Guidelines for Monitoring the Performance of National Food Control Systems (CXG 91-2017); Guidelines for Food Import Control Systems (CXG 47-2003).

⁸ Principles and Guidelines for National Food Control Systems (CXG 82-2013); General Principles of Food Hygiene (CXC 1-1969); Principles for Food Import and Export Inspection and Certification (CXG 20-1995); Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations (CXG 19-1995); Principles and guidelines for the exchange of information between importing and exporting countries to support the trade in food (CXG 89-2016); Principles and Guidelines for Monitoring the Performance of National Food Control Systems (CXG 91-2017); Guidelines for Food Import Control Systems (CXG 47-2003).

⁹ Food control system assessment tool, FAO/WHO 2019.

~~xix. —~~

- ~~xxvi. **Food control:** A mandatory regulatory activity of enforcement by national or local authorities to provide consumer protection and ensure that all food during production, handling, storage, processing and distribution are safe, wholesome and fit for human consumption; conform to food safety and quality requirements; and are honestly and accurately labelled as prescribed by the law¹⁰.~~
- ~~xxvii. **Food Control System** - the integration of a mandatory regulatory approach with preventive and educational strategies that protect the whole food chain¹¹~~
- ~~xxviii. **Food safety** is means the assurance that food will not cause adverse health harm to effects to the consumer when it is prepared and/or eaten according to its intended use (CXC 1-1969)~~
- ~~xxix. **Legislation** includes acts, regulations, requirements or procedures, issued by public authorities, related to foods and covering the protection of public health, the protection of consumers and conditions of fair trading. (CXG 47-2003)~~
- ~~**Food safety** means the assurance that food will not cause harm to the consumer when it is prepared and/or eaten according to its intended use (CXC 1-1969)~~
- ~~**Legislation** includes acts, regulations, requirements or procedures, issued by public authorities, related to foods and covering the protection of public health, the protection of consumers and conditions of fair trading.~~
- ~~xxx. **Official control** - any form of control that the competent authority performs for the verification of compliance with food law, including animal health and animal welfare rules¹².~~
- ~~xxxi. **Requirements** are the criteria set down by the competent authorities relating to trade in foodstuffs covering the protection of public health, the protection of consumers and conditions of fair trading. (CXG 47-2003)~~
- ~~xxxii. **Risk** means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard (s) in food (Codex Procedural Manual: Definitions of Risk Analysis Terms Related to Food Safety).~~
- ~~xxxiii. **Risk Analysis** - a process consisting of three components: risk assessment, risk management and risk communication. (Codex Procedural Manual))~~
- ~~xxxiv. **Risk assessment** means a scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization. (Codex Procedural Manual)~~
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¹¹ Food control system assessment tool, FAO/WHO 2019

¹² Food control system assessment tool, FAO/WHO 2019

⁷ Working Principles for Risk Analysis for Food Safety for Application by Governments (CXG 62-2007).

⁸ Equivalence refers to Article 4 of the WTO SPS Agreement and as outlined in Decision on the Implementation of Article 4 of the agreement on the Application of SPS Measure (Equivalence) (G/SPS/19/Rev. 2)

¹³ Food control system assessment tool, FAO/WHO 2019.

distribution are safe, wholesome and fit for human consumption; conform to food safety and quality requirements; and are honestly and accurately labelled as prescribed by the law¹⁴.

- iv.i. ~~Legislation~~ includes acts, regulations, requirements or procedures, issued by public authorities, related to foods and covering the protection of public health, the protection of consumers and conditions of fair trading.
- v.i. ~~Food safety~~ means the assurance that food will not cause harm to the consumer when it is prepared and/or eaten according to its intended use (CXC 1-1969)
- vi.i. ~~Requirements~~ are the criteria set down by the competent authorities relating to trade in foodstuffs covering the protection of public health, the protection of consumers and conditions of fair trading. (CXC 47-2003)
- vii.i. ~~Competent Authority~~ — the government authority or official body authorized by the government that is responsible for setting of regulatory food safety requirements and/ or for the organization of official controls including enforcement (CXC 1-1969)
- viii. ~~Food Safety~~ — the assurance that food and feed will not cause harm to the consumer when it is prepared or eaten according to its intended use (CXC 22R-1997)
- ix. ~~Food Chain~~ — sequence of stages in the production, processing, distribution, storage and handling of a food and its ingredients from primary production to consumption (ISO 22000:2018)
- x. ~~Food Control System~~ — the integration of a mandatory regulatory approach with preventive and educational strategies that protect the whole food chain¹⁵
- xi.i. ~~Official control~~ — any form of control that the competent authority performs for the verification of compliance with food law, including animal health and animal welfare rules¹⁶.

SECTION 5 – PRINCIPLES OF A FOOD SAFETY LEGISLATION

4. In developing and/or updating food safety legislation, member countries should be guided by the principles in these Guidelines and by their legal drafting, practices/traditions, and be cognizant of the needs of the country.
5. It is recommended that the process of developing and/or updating a food safety legislation should be open to public consultation with all stakeholders ~~such as consumers, producers, food industry, consumers associations, NGOs, academia and research among others~~, while respecting legal requirements to protect confidential information as appropriate.
6. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, ~~including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time (WTO SPS agreement Article 5, para 7).~~ Parties/Member countries should seek to obtain the scientific information necessary to reduce uncertainty and justify provisional measures.

17.

~~6.1. Parties should seek to obtain the scientific information necessary to reduce uncertainty and justify provisional measures.~~

7. A national food safety legislation should be based on the following principles:

PRINCIPLE 1 - PROTECTION OF CONSUMERS' HEALTH

Food safety legislation should have provisions for protecting the health of consumers as a top/primary priority. ~~and aim at the prevention of fraudulent practices, the adulteration of food and any other practices which may mislead the consumer.~~

22. -

PRINCIPLE 2 – THE FOOD CHAIN APPROACH

8. The food safety legislation should cover the entire food chain from primary production to consumption.

¹⁴ Food control system assessment tool, FAO/WHO 2019.

¹⁵ Food control system assessment tool, FAO/WHO 2019

¹⁶ Food control system assessment tool, FAO/WHO 2019

⁶ Equivalence refers to Article 4 of the WTO SPS Agreement and as outlined in Decision on the Implementation of Article 4 of the agreement on the Application of SPS Measure (Equivalence) (G/SPS/19/Rev. 2)

PRINCIPLE 3 - ROLES AND RESPONSIBILITIES

9. The administrative provisions of food safety legislation should clearly define roles and responsibilities of the stakeholders. These roles and responsibilities may be as follows:
- e. The food business operators have the primary role and responsibility for managing the safety of their products and compliance with requirements relating to those aspects of food under their control.
 - f. The government has the role and responsibility to establish and maintain up to date legal requirements and verify that food business operators comply with food safety legislation.
 - g. Consumers have a role and responsibility in managing food safety risks including products under their control and where appropriate they should be provided with information on how to achieve this.
 - h. Academic and Research institutions have a role in contributing to a food safety legislation, as they are a source of expertise to support the risk based and scientific foundation of such a system.

PRINCIPLE 4 – SCIENCE BASED LEGISLATION

10. Food safety legislation should be informed by sound scientific evidence following the risk analysis approach. ~~The legislation should make provisions for collecting and analysis of data, scientific information and evidence.~~
11. Risk analysis principles should form the foundation on which food safety legislation is based. The legislation should make provisions for collecting data, scientific information and evidence. In formulating legislation, there should be focus on risk-based approach.⁷
12. Risk analysis should be applied consistently; open, transparent and documented; evaluated and reviewed as appropriate in the light of newly generated scientific data⁷
- ~~18.~~

PRINCIPLE 5 - COOPERATION AND COORDINATION

- ~~10-13.~~ The food safety legislation should provide for a mechanism for transparent and effective communication and coordination among the different institutions and organizations responsible for food safety along the food chain-. Further, food safety legislation should have provisions to support food safety education, communication and training.

PRINCIPLE 6 – EQUIVALENCE⁸

- ~~14-14.~~ The principle of equivalence should be provided for in the food safety legislation of CCAFRICA member countries. This recognition can apply at both the regional and international level. Mutual recognition, where applicable, should be applied to facilitate trade.

PRINCIPLE 7 - LEGAL/POLICY FRAMEWORK

- ~~12-15.~~ Food safety legislation should be part of a robust national policy framework, and mechanisms for its regular review and updates should be provided for.

PRINCIPLE 8 - HARMONISATION

- ~~13-16.~~ When designing a food safety legislation, CCAFRICA member countries should aim at the harmonized approach ~~to facilitate to facilitate the inter/~~Intra-African trade and protect consumer health.
- ~~17.~~ ~~Codex texts, WTO recommendations and guidelines (SPS and TBT Agreements), where applicable, should be considered by CCAFRICA member countries when drafting/ updating national food safety legislations, in order to protect the health of consumers and ensure fair practices in food trade.~~
- When drafting/ updating national food safety legislation, CCAFRICA member countries should consider relevant Codex texts as well as WTO principles, as appropriate.
- ~~14-18.~~ In absence of specific national food safety regulations, Codex texts should may be considered.

PRINCIPLE 9 – PRECAUTIONARY PRINCIPLE

- ~~15.~~ ~~The food safety legislation should have a provision for interim risk management measures, in special cases, where there is no information or an assessment of the available information reveals the possibility of adverse health effects, but where scientific uncertainty remains.~~
- ~~16.~~ ~~The measures adopted should be proportionate to the risk and not impose unnecessary restrictions on trade and shall not be applied indefinitely.~~

SECTION 6 – ELEMENTS OF FOOD SAFETY LEGISLATION

19. Food safety legislation should be consistent with the legal drafting [practices/traditions](#) of CCAFRICA member countries upon which all other regulatory instruments/[subsidiary legislations](#) are based.

17-20. The regulatory instruments should be designed with the specific purpose of consumer health protection and/or the promotion of fair practices in food trade.

The food safety legislation should have the following elements:

xiv. Title

The food safety legislation should have a title which reflects the scope and purpose of the proposed legislation.

Examples:

- c) *An Act or a legislation of Parliament to make provision for the management of food safety ---- and for connected purposes*
- d) *Food safety Act/legislation on food safety*

xv. [Citations/Introduction/preamble](#)

The food safety legislation should contain an introductory statement that explains the purpose and implementation of the law.

Example: An Act of Parliament to make provision for the management of food safety matters.

xvi. Interpretation of terms

It ~~must~~ [should](#) provide a list of key terms and their definitions as used in the body of the legislation. The definitions should be aligned to internationally accepted texts as well as ensuring their clarity and without ambiguity.

xvii. Objective of the food safety legislation

The legislation should state clear objectives including the role of risk analysis. The objectives should include; ensuring the safety of food intended for human consumption, prevention ~~and~~ [and](#) control of food-borne diseases, facilitation of food trade and contribution to the development of the agri-food sector/[system](#).

Example: *The objectives of this Act are to provide for —*

- ~~g)d)~~ *management of safety of food of [plant and](#) animal origin including food-borne infections, contaminants, food-borne zoonoses and residues in food,*
- ~~h)e)~~ *establishment and [regulation maintenance](#) of facilities that process food,*
- ~~i)f)~~ *sanitary standards of food processing establishments*

xviii. ~~General~~ Guiding principles

The legislation should provide basic guidelines that will ensure the objectives of the law are achieved without introducing new challenges or conflict with existing legislation. The principles outlined in Section 5 may be considered as guiding principles in drafting the food safety legislation.

Other considerations may include, but not limited to integrity, impartiality, [accountability, transparency](#) fairness and conflict of interest [especially in implementation of official food controls](#).

xix. Enabling Provisions

Depending on the country's legal [practices/tradition](#), food safety legislation should define the nature and the limits of the powers to be exercised under it and designate the competent authorities in whom those powers are to be vested.

The powers vested in the government or executive authority under these enabling provisions should relate to the formulation of rules for the implementation of the law and for the intervention of the authority in order to ensure that the laws and its accompanying regulations are being observed.

xx. Administrative Provisions

The legislation should contain a category of provisions that set up administrative structure(s) to carry out the activities necessary to enforce the law. For example, the law may establish single or multiple Food Safety Agency(ies); [integrated food safety agency\(ies\)](#) communication and coordination authority and/or any other appropriate agency.

xxi. Substantive Provisions

The legislation should contain provisions relating to safety of food in the entire food chain. –These include but are not limited to: [risk based preventive approaches](#); food control requirements such as licensing, risk analysis, inspection, certification, monitoring and surveillance, hygiene requirements, prevention of fraudulent activities; food business operators' responsibilities, labelling, traceability and recall, import and export controls among others. The food safety legislation should make provision for a mechanism to facilitate performance of official controls e.g. fees, levies and charges for official control services rendered

xxii. Enforcement Provisions

The legislation should make provisions for ensuring compliance. This should include administrative actions, sanctions, seizure, inspection, prohibition and prosecution among others by enforcement agencies.

xxiii. Offences and fines

The legislation should provide and list the specific offences it covers, either by reference or in the [articles sections](#) providing for fines and penalties.

xxiv. Regulations

The legislation should have provisions for the development of regulations and other measures to support its implementation. The regulations should be guided by objectives of the Act.

xxv. Miscellaneous provisions:

The food safety legislation should make provisions for efficient implementation once the law comes into effect depending on the legal [practice/tradition](#) of the CCAFRICA member country. Such provisions may include; *repeal, savings, transition, entry into force and consequential amendments.*

REFERENCES¹⁷

~~16.~~ Perspectives and guidelines on food safety legislation with a new model food law-, [FAO, 2005](#)

~~19.~~———

~~1.~~———[Patricia A Curtis., Guide to Food Laws and Regulations. 2nd Edition, \(Wiley pubs.\) 2013](#)[Patricia and Curtis, An Operational text book guide to food laws and operations](#)

~~20.~~ [Food Safety Management System. ISO 22000:2018](#)[CXC 61-2005, Code of practice to minimize and contain food-borne antimicrobial resistance](#)

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~~22.~~ [FAO/WHO Guidelines for Developing a National Food Law, Annex 6. of Food and Nutrition Paper 76 entitled "Assuring Food safety and quality: Guidelines for Strengthening National Food Control Systems", 2003."](#)[FAO/WHO Model food law www.fao.org/agn/food/pdf/food-law.pdf](#)

~~23-18.~~——— Working Principles for Risk Analysis for Food Safety for Application by Governments (CXG 62-2007).

~~24-19.~~——— Principles and Guidelines for National Food Control Systems (CXG 82-2013).

~~25.~~ [Codex Alimentarius Commission - Procedural Manual. 27 ed. \(2019\)](#)

<https://www.fao.org/publications/card/en/c/CA2329EN/> ~~Codex Alimentarius Commission Procedural Manual— e.g, definitions, risk analysis principles, Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process and the Extent to which other Factors are taken into Account, and Statements of Principle Relating to the Role of Food Safety Risk Assessment~~

~~26-20.~~——— Principles for Food Import and Export Inspection and Certification (CXG 20-1995)

~~27-21.~~——— Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification (CXG 26-1997)

~~22.~~ [Guidelines for Food Import Control Systems \(CXG 47-2003\)](#) [Guidelines for the Exchange of Information between countries on rejections of imported foods \(CXG 25-1997\)](#)

¹⁷ The references are included for the purpose of transparency during drafting but would be removed when the guidelines are finalised

- [23. Guidelines for the Development of Equivalence Agreements Regarding Food Imports and Export Inspection and Certification Systems \(CXG 34-1999\)](#)
- [24. Guidelines \[A1\] \[A2\] for the Development of Equivalence Agreements Regarding Food Imports and Export Inspection and Certification Systems \(CXG 34-1999\)](#)
- [25. Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Inspection and Certification Systems \(CXG 53-2003\)](#)
- [26. General Principles of Food Hygiene \(CXC 1-1969\)](#)
- [27. Working Principles for Risk Analysis for Food Safety for Application by Governments \(CXG 62-2007\)](#)
- [28. Food Control System Assessment Tool, FAO/WHO 2019](#)