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Improving health through achieving Food Security in Tonga: a way forward

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The authors remain solely responsible for the contents in this report.
Improving health through achieving Food Security in Tonga: a way forward

EXECUTIVE SUMMARY

Food security is a fundamental health and development issue in the Pacific. Many factors operating at multiple levels challenge the Pacific islands’ capacity to ensure food security within the sub-region. At the macro level, globalization, urbanization and climate change are affecting availability and access to sufficient, safe and nutritious food. At the governance level, policies relating to agriculture, the environment, trade, and health have multiple impacts on food prices, local food production, the extent of dependence on imported food, nutritional standards and advertising/labelling/marketing practices for food. At the population or community level, social determinants and the media environment influence food awareness and the perceived acceptability and/or attractiveness of particular food choices. These factors interact to determine household food security (food obtained) and nutritional security (food consumed), leading to significant health and development outcomes.

The aim of this project was to review and develop a multi-sectoral approach to food security policy and its implications for NCDs with a focus on micronutrient deficiency and macronutrient excess; in addition to focus on the impacts on vulnerable groups including women and children. This involved a desk-top review of relevant literature and documents as well as a series of interviews with key informants from the government (including Health, Commerce and Agriculture) and NGO sectors within Tonga. The findings and key issues that emerged from the key informant interviews as well as their connection to available literature are discussed within the report. Some of the findings are summarised below within the seven themes that were developed for the Food Secure Pacific Framework.

Theme One: Leadership and cooperation

Overall the consultations revealed a very sophisticated knowledge of food security by key informants. A number of previous attempts to address food security reflect this sophisticated perspective. For example, the earlier establishment of a National Food and Nutrition Committee (NFNC), the establishment of the Food Division within the Ministry of Agriculture, and also through the Tonga Food Summit held in 2011. Indeed there is obvious awareness of the food security as well as the intention and will to address it, however, efforts to date have proven ineffective including problems of coordination of activities mandated to national food committees including the NFNC (as detailed below had been dysfunctional and re-established twice and eventually absorbed by a newly established committee). Other reasons for the ineffectiveness in addressing food security issues include a lack of resources, the inability to respond to profound changes in food security driven by actors outside of Tonga’s borders, and weak implementation mechanisms.

Theme Two: Regulatory frameworks, enforcement and compliance and public-private sector collaboration.

There is a clear need to establish better coordinating mechanisms and better integration of activities related to food security in Tonga. Without such coordination, gaps will continue to be unresolved and well-meaning policies will not progress to full or acceptable levels of implementation. Isolated and piece meal approaches to addressing food issues need to be addressed. A draft Food Act and regulations were proposed as early as 2006 but have only been tabled as a Food Bill in Parliament in 2012. At the time of this report the Bill has recently passed its second reading (August 2013). The enactment of the proposed Food Bill 2012 needs to be a priority given it has provisions for an overarching coordinating mechanism for food security.
Theme Three: Enhanced and sustainable production, processing, marketing, trading and use of safe and nutritious local food. There is still a lot to do to achieve greater local food capacity and production. It is notable that key informants were particularly aware of the need for a greater strategic approach to local production as well as making better use of the resources that are currently put into ad-hoc, short-term programmes. The impacts of current trade arrangements on local production capacity were also highlighted.

Theme Four: Protect infants and vulnerable groups. There was a clear need for greater coordination by both government and non-government organizations (NGO) in identifying, reaching and assisting those in need. The NGOs consulted confirmed the difficulties they had with identifying those in need and they found themselves frequently surprised that there was this 'need' even within tight-knit communities. Much of the information that these NGO's had on vulnerable groups was through their own activities and research.

Theme Five: Consumer empowerment and mobilizing partners. There is currently a lack of effective collaboration amongst sectors (government, NGO, business) and interested organisations on food security in Tonga.

Theme Six: Food security information system. Having a research agenda was discussed as extremely important by key informants, however, it was felt that the current environment was very limited for nurturing good, useful research. There was a need expressed for indicators on people of different social, economic and health status who are vulnerable and in particular women and children.

Theme Seven: Cross Cutting areas: The main issues that emerged from the consultation that related to wider influences included:

- Land, including: internal migrants' access to land for gardening; women cannot own land; unequal access to land; urbanisation and mortgage of agricultural land.
- Transport, including: expensive to transport crops from outer islands; fuel expensive for local travel, coastal fishing; and road access to garden plots unsatisfactory.
- Affordable energy for cooling storage and transport of fresh products.
- Transparent and strategically aligned project selection and implementation.

Strategic Actions

This report lays the groundwork for the development of a Food Security strategy for Tonga. The main problem encountered appears to be not an overall lack of strategy and policy but the more practical issue of implementation failure. This is manifest in a variety of ways as noted in this report; legislative approaches have been taken, but no regulations developed to action them; intersectoral meetings have been held, but no outcomes documents or action plans produced; high level policy decisions have been made, but these have not been matched with the resources required or the organisational arrangements for their implementation. The implementation gaps impact directly on achieving food security but is also a wider issue where failure to effectively implement policies in general undermines confidence in government and democratic processes. More detailed recommendations are divided into five “strategic actions”:

- **Strategic Action I**: Address the Food Policy Implementation Gap; **Strategic Action II**: Political Leadership on Food Security; **Strategic Action III**: Improve coherence, coordination and sustainability of Government activity on food Security; **Strategic Action IV**: Strengthen the voice, participation and protection of vulnerable and marginalised groups in food policy and actions; and **Strategic Action V**: Shape and develop local data to optimise its use in decision making to improve Food Security in Tonga.
BACKGROUND

Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life (World Food Summit, 1996).

Food security is a fundamental health and development issue in the Pacific. Many factors operating at multiple levels challenge the Pacific islands’ capacity to ensure food security within the sub-region. At the macro level, globalization, urbanization and climate change are affecting availability and access to sufficient, safe and nutritious food. At the governance level, policies relating to agriculture, the environment, trade, and health have multiple impacts on food prices, local food production, the extent of dependence on imported food, nutritional standards and advertising/labelling/marketing practices for food. At the population or community level, social determinants and the media environment influence food awareness and the perceived acceptability and/or attractiveness of particular food choices. These factors interact to determine household food security (food obtained) and nutritional security (food consumed), leading to significant health and development outcomes (Figure 1).

Traditionally, islands depended on local staples such as root and tubers, bananas and breadfruits for nutritional security. Increasing urbanization, the introduction of modern plantation systems and the opening up of Pacific island markets to global trade have contributed to the decline of traditional crop production and increased dependence on imported foods. The Pacific island countries’ vulnerability to global warming, including more frequent and intense natural disasters as well as changes in the suitability of land and water for agriculture, further erode their capacity to sustain local food production. Imports of cheap (e.g. rice, wheat), low-quality (e.g. chicken pieces/parts, lamb flaps, turkey tails) and convenience (e.g. ready-to-eat) foods compete with domestic foods (e.g. root crops) that are nutritionally superior but have higher production costs and are less convenient to store and prepare. As a result, many urban populations in the Pacific are increasingly dependent on less expensive, more convenient but nutritionally lower-value food imports for their daily sustenance. The total value of the annual national food import for Tonga doubled between 2000 and 2010 and was accompanied by a 110% increase in the cost of local food and 130% increase for imported food for the same period. This has significant health and economic impacts on individual households who spend 51% of their total consumption expenditure on food (MAFF & SPC, 2012).

There has been a strong and consistent political response to this crisis. Pacific Island Health Ministerial meetings, WHO, FAO, SPC and other partners have independently and jointly addressed the numerous components of food security. Pacific health leaders have mounted a vigorous response to this crisis over the past two decades with a focus on NCDs. They established the Healthy Islands Vision for health protection and promotion in 1995, have participated in research into effective interventions, and latterly, with donor support, invested in NCD prevention and control programs such as the Pacific Regional 2-1-22 Non-Communicable Diseases Program 2007-2011. Institutional responses have ranged from establishing country level Health Promotion Foundations (Tonga) to developing an overarching framework to address Food Security. Pacific island countries and partner agencies including FAO, SPC, UNICEF and WHO have endorsed the Declaration on Food Security (Pacific Food Summit, 2010) in the Pacific at the Pacific Islands Leaders’ Forum and developed the Food Secure Pacific Framework for Action to guide the operationalization and implementation of the Declaration.
More recently, Pacific health leaders’ concern has grown, their use of the words “crisis” and “alarm” to describe the current impact of the NCD epidemic on their people is apt (9th Meeting of Ministers of Health for the Pacific Island Countries, 30 June 2011). The desire of Pacific health Ministers to mount a multi-sectoral approach is finally bearing fruit. The recent meeting of Pacific Island Forum economic ministers (Forum Economic Ministers Meeting, 3-5 July 2013a) included support from economic Ministers to implement taxation interventions targeting NCD risks, as well as support to increase local food production to reduce reliance on food imports. The initiatives and the strength of this advocacy have yet to bring the epidemic under control, but there is the beginning of cross sectoral approaches, and a greater awareness that some of the drivers of food insecurity sit outside of the countries’ jurisdiction. For instance, at the 2013 Forum Economic Ministers Meeting (FEMM) food security was among the action plans for realising the opportunities for progressing economic development involved regional and inter-regional economic cooperation through taxation interventions targeting NCD risk factors, closer consultation with the private sector, quality control, trade as well as a finalised NCD roadmap and close engagement of Forum Members (Forum Economic Ministers Meeting, 2013).

The ‘Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases,’ in 2011 acknowledged these challenges and created a momentum for stronger and bolder action on NCD. The Political Declaration urges countries to integrate NCD prevention and control into the national health planning process and development agenda, by promoting, establishing or strengthening multi-sectoral national policies and plans for the prevention and control of non-communicable diseases. The complexity of the issues impacting on food security requires policy responses that address a wide range of sectors in a consistent way. Health policies in the food domain have traditionally been motivated from a food scarcity perspective, rather than addressing the nutritional impact, food safety dimensions and excess calories.
Agricultural policies have focused mainly on increased production. Policies in other sectors, such as trade, fisheries, energy and water, all have a significant impact on food. However, these sectoral policies tend to be fragmented, addressing individual substances and issues separately. The limitations of this approach become particularly apparent with the disastrous development of the NCD epidemic that is facing the Pacific Islands.

To progress food security, policy synergies and trade-offs need to be considered across a wide range of influences. Information systems need to support timely feedback as often impacts of particular policy initiatives are unforeseen at the time of their implementation. Governance strategies critically depend on sound and accessible information. People should not be seen as passive recipients of food policy but as dynamic actors, able to influence and sustain food security initiatives.

The food security challenges in Tonga mirror this regional perspective. Importation of food is not a new phenomenon. The arrival of early Polynesians in Tonga brought with them at least seventy species of edible but economically useful plants as well as considerable knowledge of agroecology and skills at cultivation in limited environments (Cox, 1991). The more recent globalisation of Tonga’s food system has marginalised local production. The end result is now a region where the majority of the population lacks food security – food is available, but nutritionally poor, high in fat, salt and sugar, and leading to some of the highest rates of diabetes and obesity in the world.

Currently, non communicable diseases (NCD) account for 74% of all deaths in Tonga. At least 34% of males and 27% of females aged 25 years and older have raised blood pressure compared to 29% and 24% for the region respectively. Over 49% of males and 70% of females aged 20 years and older are obese compared to the WPRO regional level of 5% and 7% respectively. Vulnerable populations such as the poor, the unemployed, and women and children are disproportionately affected, and are more likely to suffer the adverse health and economic consequences of food insecurity.

Tonga has a significant history of attempts to address different aspects of the food system, through legislation (see Table 1 below) or policy and in recent years taken a number of steps aimed at addressing issues related to food. A National Food and Nutrition Committee (NFNC) was established in 1982 whose Terms of Reference (TOR) was to provide recommendations on strategies to increase local food production and to advise Tonga’s Cabinet on food and nutrition and related disease burden. The Committee consisted of government, church groups and NGOs but was disbanded after a few years. The re-establishment of the NFNC with the intention that decision makers of key agencies serving as members were not totally successful with the members consisting mostly of technical staff with little impact on policy and led to the Committee being dysfunctional around 2007. Among the key policy decisions, however, in relation to food is the Cabinet approval of recommendations of a national expert consultation in 2004 to establish a national food authority as a single regulatory agency to consolidate all food safety responsibilities in the country. A lack of funds have led to failures in implementation of some of these policies with the above Cabinet decision later updated and revised by the National Codex Alimentarius Committee which had taken over the NFNC. Key legislations related to food that does exist appear to conflict and overlap as well as lacking regulatory frameworks. For instance the Public Health Act of 1992 and subsequent Amendments (2008, 2012) has no regulations but is enforced through the Public Health (Bakeries and Bread Vendors) Regulations, 1940; Public Health (Restaurants and Food Stores) Regulations, 1940 and the Public Health (Meat) Regulations, 1967.

A second significant policy decision by government was the creation of a Food Division as part of the Ministry of Agriculture and Food, Forests and Fisheries. This followed from the
The government’s merging of the Ministry of Agriculture and Food (MAF) with Ministry of Fisheries (MOF) and the Ministry of Forests to form the Ministry of Agriculture and Food, Fisheries and Forests (MAFFF) in 2006. A significant side note is that at the time of this report because of a lack of resources – both financial and staffing - the Food Division within MAFFF has become a lesser grouping now called the Food ‘Section’. A national consultation by government, private stakeholders and FAO drafted a Food Bill in 2006 which finally passed for Enactment in Parliament in the second half of 2013. The findings of this report suggest that without greater coordination, gaps will continue to be unresolved and well-meaning policies will not progress to full or acceptable levels of implementation.
### Table 1: Existing Legislation Directly and Indirectly related to Food in Tonga

<table>
<thead>
<tr>
<th>Act/ Bill</th>
<th>Powers</th>
<th>Regulations</th>
<th>Executing agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food Act 2012</td>
<td>To regulate the manufacture, sale, import and export of food for commercial purposes, to guarantee food safety and fitness for human consumption, promote fair trade practices in food and to provide for related matters</td>
<td>Recently passed in Parliament in August 2013 and yet to have Regulations</td>
<td>Ministry of Agriculture, Food, Forestry and Fisheries (MAFFF)</td>
</tr>
<tr>
<td>Aquaculture Management Act, 2003</td>
<td></td>
<td>Draft Aquaculture Regulations</td>
<td>MAFFF</td>
</tr>
<tr>
<td>Agricultural Commodities Export Act 2002</td>
<td></td>
<td></td>
<td>MAFFF</td>
</tr>
<tr>
<td>Plant Quarantine (Amendment) Act 1995</td>
<td>Regulates the importation and exportation of plants and plant materials into and out of Tonga</td>
<td>Plant Quarantine (Diseases of Plants) Regulations.</td>
<td>MAFFF</td>
</tr>
<tr>
<td>Fisheries Management Act, 2002</td>
<td></td>
<td>Draft Fisheries (Conservation and Management; Local Fishing; Processing, Marketing and Export; High Seas, Foreign and Test Fishing, Vessel Monitoring System) Regulations;</td>
<td>MAFFF</td>
</tr>
<tr>
<td>Pesticides Act 1992</td>
<td>Regulate the manufacture, register, sale, distribute, use and disposal of pesticides in Tonga.</td>
<td></td>
<td>MAFFF</td>
</tr>
<tr>
<td>Rhinoceros Beetle Act (Cap. 131)</td>
<td>Power to prohibit the importation from any prohibited place of plants, trees, shrub or vegetables or articles manufactured including foods or the importation of rhinoceros beetles.</td>
<td>Plant Quarantine (Diseases of Plants) Regulations.</td>
<td>MAFFF</td>
</tr>
<tr>
<td>Business Licenses Act, 2002</td>
<td>Issuance of business licenses for food activities seen as businesses</td>
<td>Draft Business Licenses Regulations</td>
<td>Ministry of Commerce, Tourism and Labour (MCTL)</td>
</tr>
<tr>
<td>Consumer Protection Act 2000</td>
<td>Protection of consumers and establishment of fair trade practices in all goods and services incl food.</td>
<td></td>
<td>MCTL</td>
</tr>
<tr>
<td>Family Protection Bill 2012</td>
<td>To provide for greater protection from domestic violence</td>
<td></td>
<td>Ministry of Police (MoP)</td>
</tr>
<tr>
<td>Water Resources Act 2012</td>
<td>The management, protection and conservation of the water resources of the Kingdom</td>
<td></td>
<td>Ministry of lands, environment, climate change and natural resources</td>
</tr>
</tbody>
</table>
THE PROJECT

The Suva office of WHO is supporting activities to compliment those outlined in the Framework for Action on Food Security in the Pacific (FAFSP) as part of a regional multi-agency (Food Secure Pacific Working Group, 2010). Recently WHO has collaborated with the Centre for Public Health Research (CPHR) at Massey University to investigate the use of food security indicators in Tuvalu and Fiji. This current Project is funded by WHO and implemented by CPHR and contributes to these regional efforts to address food security in the Pacific as well as being in line with and guided by the themes for action in the above Food Secure Pacific Framework.

Aims
To review and develop a multi-sectoral approach to food security policy and its implications for NCDs with a focus on micronutrient deficiency and macronutrient excess; in addition to focus on the impacts on vulnerable groups including women and children.

Description of work under the Agreement for Performance of Work (APW)
An evidence-based multi-sectoral food security strategy for Tonga including a focus on NCDs and micronutrients specifically targeting vulnerable groups including women and young children building on the Framework for Action on Food Security in the Pacific and the outcomes from the Tonga National Food Summit held in 2011.

The specific tasks were:
- Teleconference between the Centre for Public Health Research (CPHR) on behalf of Massey University and the World Health Organization (Suva) to outline broad objectives of the mission
- A Desk Top Review of the scope of food security and food and nutrition related policies including major food Bills to be tabled and review progress of activities on food related policies including recommendations from the Tonga Food Summit of 2011
- Recommend mechanisms to implement actions that came out of the Tonga Food Summit deliberations.
- To conduct consultations with national counterparts and key informants from government and non-government agencies, women's groups and civil society on challenges to food security in relation to Noncommunicable diseases (NCDs) including micronutrient deficiency and excess of unhealthy diets.
- Seek opinions on legislation related to food and food security and food related regulations at national and international trade agreements.
- Develop a proposed comprehensive national food security strategy for Tonga
- The food security strategy is to contribute to national and regional multi-sectoral approach for food security policy in the Pacific.
- Gain feedback on a draft report prior a final report submission.

METHOD
The desk-top review was largely carried out prior to the consultations. This involved literature searches using the databases Scopus and Medline for relevant peer reviewed literature, but also searches of websites likely to have relevant reports and information. Documents and reports were also collected throughout the consultations within Tonga. The information found through both these means are reported within this document alongside the findings from the interviews. This is done in order to give context and provide additional evidence on many of the issues encountered. The literature and documents referred to in this report are either referenced or attached as Appendices.
The in-country interviews were carried out in early June 2013 over five days. Nineteen individuals were interviewed from 13 organizations. Interviews ranged in length from one to two hours and were taped by digital recorder as well as notes being taken through the interviews. A guide was loosely used to direct the interviews (see Appendix A). Organisations consulted include the Ministry of Health (MOH), the Ministry of Agriculture and Food, Fisheries and Forestry (MAFFF), the Ministry of Commerce, Tourism and Labour (MCTL), Public Service Association, Parliament of Tonga, Tonga Department of Statistics, Women and Children Crisis Centre, Tonga Red Cross, Salvation Army, Attorney General’s Office and Pacific Islands Tuna Industries Association and the National Fisheries Council (see Appendix B for list of participants – note some organisations/individuals were consulted via telephone and email). Following the drafting of this report those consulted were given the opportunity to provide feedback on the draft report which has been included in this final version.

**The Project implementers**
The Centre for Public Health Research (CPHR) at Massey University, Wellington, New Zealand coordinated the Project. The core project team includes: Professor Don Matheson, Dr Sunia Foliaki and Dr Anna Matheson. In consultation with Mr. Peter Hoejskov (WHO, Suva) the Project collaborated closely with and consulted Dr. Malakai ‘Ake (health) and Dr. Viliami Manu (Agriculture) throughout the mission and other personnel leading food security activities in Tonga.

**FINDINGS: TONGA AND THE FOOD SECURE PACIFIC FRAMEWORK**

The following discussion incorporates the key issues that emerged from the key informant interviews as well as their connection to available literature. The section is structured using each of the seven themes that were developed for the Food Secure Pacific Framework (Food Secure Pacific Working Group, 2010). Below, issues relevant to each theme topic that were identified through the interviews, are first discussed followed by a brief outline of how Tonga is doing in terms of achieving the desired outcomes related to food security described under each of the seven framework themes. In short, the themes are: leadership and cooperation; the regulatory environment; local capacity; vulnerable groups, consumer and partner capacity; food security information systems; and other wider issues.

**Theme One: Leadership and cooperation**

“Do we want healthy Tongans or unhealthy Tongans?” (Health)

The consultations revealed that there were substantial concerns about food security in Tonga backed by a strong will to begin to address these concerns. Representatives from Health, Agriculture and Commerce all discussed food security as a problem for Tonga - in particular the current trend of increasing and unregulated food imports and the flow-on effects this has for local production and consumption. ‘Health’ held the view that the rise in NCD’s in Tonga is directly related to food insecurity and strongly advocated that a solution to improving the poor health of the Tongan people was to include improving population health as a top goal across all of government and policy priorities. ‘Agriculture’, made up of food, forestry, fisheries, livestock, research and extension, considered greater coordination and transparency of activities related to food security as key to improving the effectiveness of programmes aimed at local production and consumption. They expressed a need for a more strategic approach and also that longer term, sustainable programmes were essential but were currently lacking. ‘Commerce’, equally understood that trade agreements did not often consider the potential impacts on local Tongan health. Indeed, many agreements and arrangements were focused on maintaining and expanding trade relationships, and this is sometimes at the expense of the health of the Tongan population. It was suggested that innovations (such as responding to the need for quick and nutritious foods) and incentives
were more aimed at external markets but were lacking for local market problems (such as seasonality of vegetables).

Leadership, cooperation and national priorities were considered key elements that were needed in order to progress food security in Tonga. The NGO’s interviewed similarly expressed a need for greater leadership and cooperation to address food security. A significant concern discussed by NGO’s was their very limited resources and limited knowledge, particularly of groups who are the most impacted by food insecurity. It is well recognised internationally that there is a need for strong civil society advocacy and lobbying to progress health issues such as those related to food security (Mike Evans, Sinclair, Fusimalohi, & Liava'a, 2001a; Friel & Baker, 2009).

Through the interviews it was clear that there was a desire, among those organisations interviewed, for the establishment of a ‘high-level’ committee on food security in order to develop a strategic, coordinated approach. A number of potential ‘levers’ were identified that could assist with the establishment and agenda of such a committee. Of significance to this discussion is the Food Bill referred to in greater depth throughout the report and included in Appendix C. While the Act will not address all components of the wider issue of Food Security it is nevertheless an important step in accelerating and assisting in a collaborative manner the various activities conducted and envisioned for a food security policy for Tonga. One of the key tenets of the Food Act is to establish a Food Authority responsible for overseeing and coordinating food issues with a focus on food safety. In relation to food security the Act specifically charges the Authority with the role of “formulat[ing] strategies and policies for food, nutrition and food security...” We see that this role could provide an opportunity for a broad and strategic approach to address food security as defined internationally and in the Framework for Action on Food Security in the Pacific (Food Secure Pacific Working Group, 2010).

Recent policy progress has been made in an area with similar complexities. Parliament recently passed an integrated water bill, (Water resources bill 2012) with the oversight of this resource by a multi sectoral National Water Resources Committee who in turn have the power to establish a National Water Resources Technical Committee. This bill provides an umbrella for the setting of sector specific standards across a number of agencies, such as health and agricultural. As food policy itself is inextricably linked with other key resources: water, energy and other materials, and all ultimately depend on a well-functioning ecosystem, the opportunities to learn from and build on the Tongan government’s approach to water has real significance for food. A similar mechanism that is able to encompass the full breadth of food security has been suggested by some government officials as the next step for food security following the passage of the current food bill.

The 2010 Millennium Development Goal (MDG) report for Tonga recognises the same trends identified here in this report and elsewhere, that is: increasing NCDs'; increasing unregulated imports; decreasing local production; increasing poverty/hardship; and a changing food culture (Ministry of Finance and National Planning, 2010). The MDG report argues the main solutions are greater community development and local activity and also less government involvement in matters of the economy including greater autonomy for private interests. **Surprisingly, in their section on poor food quality there is no mention of Trade relationships or indeed that imported goods are currently the main source of poor quality foods in Tonga.** Where the MDG report argues that government needs to get out of the economy, our consultation indicates that rather there is a need for government to more clearly express its societal expectations from parts of the economy, such as the importation of food. There is substantial academic work being done on the erosion of ‘policy space’ for governments (Thow, Heywood, Schultz, Quested, Jan, & Colagiuri, 2011)– for example where policies pursuing local public health objectives might run counter to the requirements of trade agreements that the Tongan government is party to. In the long-term,
especially when considering the current trends in both health and increasing poverty, it is crucial that the Tongan government does not lose its power to protect and promote the health of the Tongan population. Obviously Tonga is a very small player in world trade and therefore has limited power to influence its rules. While prioritising Tongan population health might lose some economic opportunities, interviewees indicated that it may also create new ones and produce different kinds of business growth. This case is even more compelling from an economic perspective when the economic impact of NCDs are considered (Forum Economic Ministers Meeting, 3-5 July 2013a, b).

It is clear that both the substance of our consultations and the surrounding research and literature sees trade as a central lever for altering the local food environment especially in countries which are increasingly dependent upon food imports. Indeed, it was strongly argued by those interviewed that local population health needed to be held as a top government priority in trade negotiations. There are obviously challenges and competing pressures in negotiating trade agreements, however, some tangible and considered recommendations have been proposed as a result of the Trade, Trade agreements and NCDs in the Pacific workshop held earlier this year (WHO Western Pacific Region, SPC, C-POND, & UNDP, 2013). For example, how can a country such as Tonga be trade compliant but also ensure products are having a positive impact on health? One suggestion provides highlights the existing mechanisms for this through the WTO - where there is room to push boundaries (with regards to pursuing public health goals) as the WTO is based on diplomacy and negotiation. The workshop report specifically argues that, “Governments should explore the ways for effectively using the public health-related provisions in the WTO system and in other trade agreements” (p46). One challenge to achieving this, however, is having very good information and knowledge about trade benefits versus the health benefits. It is clear that to date this information does not exist, or if it does has not been used for this purpose. To make a strong argument would require better information about the costs of NCDs to the health system, now and in the long-term and how this might relate to the benefits of any specific trade agreements. At present this information is limited.

**Theme 1 Outcome: Strong leadership and effective multi-sectoral coordination for food security regionally and nationally**

How is Tonga doing in relation to the outcome above? Overall the consultations revealed a very sophisticated knowledge of food security by those interviewed, and a deep understanding of the complexities involved. A number of previous attempts to address food security reflect this sophisticated perspective (see Background Section and Table 1). For example through the establishment of the Food Division within the Ministry of Agriculture, the National Food and Nutrition Committee and also through the Tonga Food Summit held in 2011. Indeed there is obvious awareness of food security and also the intention and will to address it, however, efforts to date have proven ineffective. Reasons for this include a lack of resources, the inability to respond to profound changes in food security driven by actors outside of Tonga’s borders, and weak implementation mechanisms. For example it has been suggested that the National Food and Nutrition Committee (which had been dysfunctional and consequently re-established twice before being absorbed by the National Codex Alimentarius Committee (NCAC)) consisted primarily of technical personnel with few participants who could influence policy directions and also a very weak secretariat for coordination and support – leading to little effective action. In recent years the NCAC likewise had been equally less than active and plans are now in place for the NCAC to be replaced by a National Food Authority. The recent Food Summit is another example, where it echoed the need for greater strategy on food security, suggesting a ‘roadmap’ towards greater food security be developed that is inclusive of all the relevant sectors – government, NGO’s and business interests (MAFF & SPC, 2012). Although there was excellent cross sectoral participation, this has yet to be followed up with a comprehensive report on the outcomes, with only a limited document of the minutes of the Summit currently available.
Indeed, as mentioned earlier, the ‘Food Division’ within MAFFF has now become a ‘Food Section’ because of a lack of resourcing.

There was also awareness shown through the consultation of the risk to countries like Tonga of losing their government autonomy and the erosion of ‘policy space’ through the provisions in Trade agreements. There was the suggestion that this ‘space’ particularly with regards to the health of the Tongan population needed to be taken back. Moreover there was also a cautious view held on the priority for regional approaches versus national approaches to issues such as food security. There was acute awareness that although lessons can be learned from other countries one size does not fit all from a regional view. Also arising from the review of this report was a question about the appropriateness of the formal definition of food security (outlined in the Background section) for the Pacific region. One reviewer suggested that there was a need to highlight the Pacific’s regional and local context whereby food is not utilised exclusively to meet dietary and food preferences but also features significantly in cultural practices and obligations. The sharing and donating of large quantities of food and food crops signifies generosity, respect and loving care with food being viewed as a social asset.

Summary of points

- Population health needs to be a top government goal.
  - Perhaps leveraging off the Pacific Ministers meeting 2013 and the PIFS Leaders Declaration on a multi-sectoral response to the NCD crisis.
- Greater health, commerce and agriculture cooperation needed.
- Strong suggestion for a high level committee, strong secretariat.
  - Development of inclusive, strategic roadmap to greater food security.
  - Need to explore opportunities for public health provisions within trade agreements.
  - Ensure findings and progress of the Trade and NCD workshop are revisited.
  - Greater inclusion and coordination of NGO and business activities and perspectives on food security.
- Need for a definition of food security relevant to the context of the Pacific region.

Theme Two: Regulatory frameworks, enforcement and compliance and public-private sector collaboration

At the time of this project there was no comprehensive legislation or accompanying regulations covering Food Security in Tonga. As noted during previous legal consultations (Nuampong, 2006) there are no provisions in Tonga’s constitution to guarantee the right to food or provisions in the existing legislation to address food security.

As described above Tonga has a significant history of fragmented policy responses related to food security. In November 2004 Cabinet recommended that a model and an action plan for a national food control and quality assurance system be instigated. With no resources to back this executive decision and without subsequent regulation, the Cabinet’s intent was not fully realized. This past experience suggests that a major challenge lies in moving from high level policy decisions to implementation on the ground. Policy intent is often not followed by effective policy implementation. However, several pieces of legislation do exist within various ministries and departments that address different aspects of food either directly or indirectly with varying degrees of regulatory and implementation powers (refer Table 1 for a chart describing these Acts). The provision and monitoring of these Acts inevitably overlaps.

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1 Suggestion by Pita Taufatofua (Pacific Agricultural Specialist) in review of draft report.
across a number of departments and across ministries with the potential for inconsistencies and duplication.

Currently the Food Division of MAFFF is primarily responsible for food control and the importation of foods in the form of plants and animal products. The Fisheries Division of MAFFF is the regulatory agency for fish and seafood generally (a major diet component in Tonga) but has traditionally been focusing on processing fish and seafood for export leaving the regulation and enforcement of fish for domestic consumption to the MOH inspectors. The Fisheries Division retains control of licensing fees for commercial fishing. The Ministry of Commerce, Tourism and Labour (MCTL), being responsible for enforcing fair trade practices and licensing of food business; the latter also a responsibility of the MOH. However, the overall view of those interviewed was that the frameworks these Bills and Acts provided needed greater coordination and in most instances they needed greater resources and strength of implementation and enforcement. It was also understood by those interviewed that the steps taken by the government through legislation have demonstrated an intention to focus more on issues of food safety control and quality rather than taking a broader, coordinated approach to ‘food security’.

Most directly related and important to food security is the Food Bill 2012 discussed earlier. A significant concern that emerged from the consultation was the lack of urgency in passing the Food Bill. One interviewee commented on the inappropriate priority given to legislating and regulating the protection of plants and animals; with less priority given to legislating the protection of human health via appropriate food Acts.

“Protect humans too, not only plants and animals” (Health)

An extension of the concern to “Protect humans too, not only plants and animals” is the need for better implementation of regulations related to the right of consumers to be informed about food content, source and processing of food consumed. For example, the Pesticides Act prohibits the importation, or sale of any food which contains more than the maximum residue limit (MRL) of pesticides but fails to make specific provisions for the fixing or adoption of specific limits for such MRLs in either the Pesticide Act itself or the Act’s regulations. (Nuampong, Y. O. M. (2006)

There has also been a consistent lack of development of specific regulations for other core Acts. For example, the Public Health Act, 1992 does not have accompanying regulations. Also, the Public Health Act (Amendment) 2008 has not come into force yet since its approval by Parliament (Crown Law Tonga).

In regards to the safety of both imported and local foods a concern was expressed by a number of those interviewed that they just did not know what was in some of their food (and these are people who, because of their jobs, should know). It was suggested that farmers, women and children are prone to hazards from pesticides through direct contact during herbicide use and from storage in homes while residual pesticides on vegetables sold too soon after spraying, and little information on chemicals used, contributes to the risk to the public at large. There is a lack of testing for pesticides, herbicides and related chemicals in food, water or the environment – largely due to the expense of these tests. According to those interviewed from ‘Agriculture’ there is an increasing awareness of the risks of pesticide, herbicide and chemical contamination - however, substantial work still needs to be done in this area. For example it was suggested that research was needed on the impact of pesticides and other pollution which is thought to be causing the depletion of marine food sources as well as erosion on the main lagoon in Tongatapu.

The Pacific Network on Globalisation (Pacific Network on Globalisation, 2012) argues that the decision by Tonga to join the World Trade Organization (WTO) in 2005 came with
obligations to establish food safety and quality assurance of international standards as well as obligations to the people of Tonga ensuring all food imported is safe and fit for human consumption. However some argue that given Tonga has few goods to export and cheap low nutrition value foods are now more accessible the broader social and economic advantages of joining the WTO and its implications for food security are less clear (Pacific Network on Globalisation, 2012). Irrespective of where the balance of risks and benefits lie, it is clear that international trade agreements are having a profound influence on Tonga’s food security and, as noted earlier, better information is required to assess and manage both risks and benefits.

Overall the consultation highlighted concerns with the lack of regulation and enforcement capacity as well as overlapping responsibilities and duplication of activities in relation to food. There was a strong recognition that substantial constraints to greater legislative and policy coherence was the context in Tonga of limited financial, technical and collaborative capacity.

“The recently approved taxation on ‘unhealthy’ foods and soft (sweet) drinks had been tabled for submission to Cabinet continuously over the “past 20 odd years” (Health)

Theme Two Outcome: Strengthened food regulatory frameworks, enforcement and compliance capacities and public-private sector collaboration

How is Tonga doing in achieving this outcome? There is an obvious need to establish better coordinating mechanisms and better integration of activities related to food security in Tonga. As referred to above, a draft Food Act and regulations were proposed as early as 2006 but has only been tabled as a Food Bill in Parliament in 2012 and at the time of the report has recently passed its second reading (August 2013). The enactment of the proposed Food Bill 2012 is a priority given it has provisions for an overarching coordinating mechanism. The Bill focuses on regulating the manufacture, sale, import and export of food and to guarantee food safety and fitness for human consumption and to promote fair trade in food. The Bill’s focus is food safety, not the broader concept of food security as envisioned in the Framework for Action on Food Security in the Pacific (FAFSP). That is where “all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life”. Of the four conditions involved and strengthened in food security, i) availability, ii) stability of supply, iii) access and iv) utilization, the Food Bill has most of its impact on utilization.

The consultation clearly revealed that despite strong interest from key sectors for an acceleration and approval of the Food Bill the progress was still slow. This has been attributed to various factors including lack of a strong secretariat with policy influence and according to one participant reluctance from others who view the establishment of a Food Security Council/Authority as outlined in the Food Bill as threatening their individual and establishment power and authority. In contrast, the health sector for example has voiced a strong interest in getting the Food Bill passed and conveyed their interest in cost sharing - for example allocating health inspectors for Food Authority directed work.

There is therefore still a need for policies to address the right not only to safe food but to adequate food and food security as envisioned by the FAFSP. As previously discussed, one of the two Acts directly addressing food (Public Health Act 1992) and its consequent Amendments have either been passed and not enforced or passed with no regulations, which according to specific health personnel were due to failure to follow up of ‘normal’ procedures by both health and crown law personnel. This has resulted in recent amendments enforced by 1940 Regulations that were appropriate at the time of the original Act. Another example is the Consumer Protection (Amendment) Act 2009 which has been
passed, however, enforcement of its regulations is clearly lacking - expiry dates on foodstuffs for instance are not monitored.

Summary of points

- Ensure that timely regulations are developed for the recently passed Food Act.
- Suggestion for a broader Food security Bill to be drafted to extend and coordinate other Acts of relevance.
- More generally the issue was highlighted of the need for political advocacy and commitment to hasten the passage of appropriate Bills into Acts and regulations.
- Acts being ineffectively processed and their implementation impacted through weak government processes and a lack of resources.
- Clear need for greater resourcing and coordination of enforcement of food safety.

Theme Three: Enhanced and sustainable production, processing, marketing, trading and use of safe and nutritious local food

“Tongans have little control over what they eat and drink because they do not control price. Decision-makers control price” (Health)

The history of Tongan agriculture impacts on the present capacity for local production. It is recognised that the speed by which liberalisation has occurred in countries such as Tonga, has meant that there has been little time for agricultural development - going straight from subsistence to commercial and trade liberalisation (Ministry of Finance and National Planning, 2010). Consequently, countries in this situation are not well equipped locally to counterbalance the import trend that is currently being observed. The social and economic environments related to the importing of foods, and to the local production of foods are intertwined. This relationship impacts directly on what foods are available for Tongans to purchase, as well as impacting indirectly by undermining local markets and local production through the availability of fast, cheap food - resulting in more cheap, unhealthy and potentially unsafe foods being consumed. All of those interviewed for this project were certain that the most influential factor in food choices for Tongans was price. This is echoed in research carried out in 2000 which found that the consumption of unhealthy imported food held no relationship to the knowledge individuals had of food and nutrition (M. Evans, Sinclair, Fusimalohi, & Liava’a, 2001b). The authors conclude from this that community education interventions were limited in their goals to shift people to eat more healthy foods. Rather they suggest the wider determinants of the food environment – in particular trade relationships – are key to shifting local consumption habits and trends.

The consultation also highlighted a cultural shift in food practices, particularly from the younger generations with the idealisation of things ‘Western’. Moreover, there is also a shift to foods that take less time to prepare becoming more popular with the easy choice being cheap imported food. Cheap, quick-to-prepare, locally produced foods are limited as it is clear that the local production and processing of food has not adapted to this change.

As highlighted through this consultation, the fisheries are of particular concern in Tonga - both in terms of sustainability of fish stocks in the region, and the decline in the local consumption of fresh fish and the limited financial returns to Tonga of foreign fishing activities. There is over-exploitation of coastal/inshore fisheries resources due to the excessive use of over-efficient fishing gear. The need to have access to affordable seafood cannot be any clearer given the NCD epidemic. At present the price of fresh fish is out of the reach of many Tongans. Tinned fish, imported from Asia, and chicken parts are much more frequently consumed. Enforcement is a big problem with sea resources and little
regulatory power to protect species from overfishing. There are 25 foreign tuna long line fishing vessels licensed to fish for tuna and other highly migratory commercial fish species within Tonga's exclusive economic zone (EEZ). Six (6) of these vessels pay a licence fee of USD 37,000 each per year because of their size [more than 100 tons (gross registered tonnage)] and the total fish catch are landed in ports outside Tonga. Seventeen (17) vessels pay a licence fee of USD 20,000 each per year because they are less than 100 tons (gross registered tonnage) in size, but also land their total catch in ports outside Tonga. The remaining two vessels pay a licence fee of USD9,000 each per year because they are less than 100 tons (gross registered tonnage) in size and locally based (100% of their fish catch are landed in Tonga). These licence fees seem small in comparison to the size of the fisheries involved. Annual catches of the four main tuna species (skipjack, yellowfin, bigeye and albacore tunas) in the Western and Central Pacific Ocean reached 2.46 million tonnes in 2009, with a landed catch value of USD 4-5 billion per year (Secretariat of the Pacific Community, 2013).

On land, MAFFF has attempted to improve and increase local production but views these activities to date as “ad-hoc”. They have been responsible for a number of initiatives including incubators to hatch chicks, greenhouses to grow crops and the importation of breeding sheep to increase local stock. They also run programmes aimed at households growing their own vegetables and programmes focusing particularly on women – on nutrition, family management, cooking, food preparation and floriculture (for income). Most of the organisation’s efforts go into fruit trees, vegetables and livestock. It was suggested that consulting with communities about their programmes was difficult but they have a communication programme to disseminate information on radio three times a week and also through television. The overall approach to these programmes, however, is considered piecemeal, short-term, often in response to donor funding coming available for short periods, and not sustained. A big challenge expressed was how to strike a balance in the push for food production for export and sustaining subsistence to ensure the availability of local food for household consumption.

Theme Three Outcome: Improved production, processing, marketing, trading and use of safe and nutritious local food

How is Tonga going in achieving this outcome? Based on the anecdotal information gathered from this consultation as well as the continuing consumption trends that have been discussed it appears that there is still a lot to do to achieve this outcome. It is notable that those interviewed were particularly aware of the need for a greater strategic approach to local production as well as making better use of the resources that are currently put into ad-hoc, short-term programmes. The “Buy Tonga Made” strategy for instance is already implemented but needs greater promotion and strengthening to ensure it has greater chance of achieving its goal of strengthening local markets. Our consultations support the opportunities identified in the Trade, trade agreements and NCDs report (UNDP et al., 2013) for overcoming some of the challenges impacting on local production. These opportunities include: investment (local and international) in agriculture to enable farmers to engage with high quality export markets as well as traditional production (e.g. better land management for sustainable intensification); support for value adding and innovation in production and processing for traditional foods; and greater collaboration between trade, agriculture and health.

Summary of points

- Suggestion there is a need to address trade policies that result in more favourable conditions for foreign firms than local – for example fisheries.
- Need for the effective implementation of policies to support local production and capacity, some suggestions included:
Theme Four: Protect infants and vulnerable groups

From the interviews a picture was portrayed of healthy food being increasingly out of reach to Tongans – and not only for those in poverty. For example it was suggested that the poor could not afford fresh fish, while the middle class might average one fresh fish meal a month. The NCD epidemic is responsible for a huge burden for Tonga’s socioeconomic, health and development programmes. Which according to some participants have somewhat obscured the equally important and escalating problem of micronutrient deficiency such as a growing problem with anaemia in children - resulting from poor nutrition - with negative effects on cognitive development and educational outcomes. Recent specific data on these conditions and other micronutrient deficiency among children, women and vulnerable groups however has been limited. For example the prevalence of underweight children was very low in 1986 at 1.6%, but has increased to 2% in 1999, with no national estimates since (Ministry of Finance and National Planning, 2010). The proportion of the population below minimum level of dietary energy is assessed at 4% through one single data point in 2004. Limited information can be deducted from hospital sources as it would reflect mostly sick individuals, and among these, only those who decide to present to health facilities in the first place. The lack of up to date data it is difficult to assess the magnitude and direction of these indicators and especially among the vulnerable groups, children and women who may also be among those most likely to have difficulties accessing services.

Some of the issues discussed throughout interviews relating to vulnerable groups included that there is a high incidence of skin infections in children. It is also not uncommon for school children to go without breakfast or lunch. Even when food considered unhealthy are banned from school kiosks - as has occurred in a number of schools - because of unaligned policies, shops across the road from schools can still sell unhealthy foods to children. The interviews further highlighted that there was a need for greater information on breast feeding rates and women’s experiences of breast feeding. Anecdotally, social environments such as public and social settings and places of work do not provide environments supportive of breast feeding. The price of infant formula is also out of reach for many and the safety of products is uncertain due to lack of literacy given infant food labels are either in English or other foreign languages. Nursing mothers frequently prepare infant formulas to optimise quantity due to the high cost of formulas rather than the appropriate proportions. Another strong theme from the interviews was the increasing numbers of urban poor in Tonga as more people are migrating into Nuku’alofa from the outer islands. The extent of problems related to this trend are unknown at this point, however, anecdotal issues may include increasing alcohol and drug dependencies and the resulting impact on families. Migrants will also potentially be low earners especially if they have migrated for education reasons and not for employment, and will be further impacted by owning no land for gardening. There is also no government social protection for the vulnerable, who rely on traditional (family and community) forms of welfare and NGO’s.

A critical component of being able to effectively intervene to protect infants and vulnerable groups is being able to both identify these groups and also ‘reach’ them. According to the 2010 MDG report (based on analysis of the HIES 2001 2009) those living below the national
poverty line has increased from 16.2% in 2001 to 22.5% in 2009 (Ministry of Finance and National Planning, 2010). The report notes a significant increase in Tongans experiencing poverty and hardship. At the same time the MDG report also highlights the lack of formal social protection/welfare in Tonga in light of withering traditional support networks that would see families and communities care for and assist those without access to resources. Changing cultural factors and greater hardship are leading to a lessening of the ability to share resources outside immediate families.

**Theme Four Outcome: Increased well-being, reduced illnesses, disabilities, and premature deaths associated with a lack of food security**

How is Tonga doing in achieving this outcome? There was a real need highlighted for NGOs to coordinate their activities in identifying, reaching and assisting those in need. The NGOs consulted confirmed the difficulties they had with identifying those in need and they found themselves frequently surprised that there was this ‘need’ even within tight-knit communities. Much of the information that these NGO’s had on vulnerable groups was through their own activities and research. For example the Red Cross disability survey (Taylor, 2006) and the Women & Children Crisis Centre report on their clients (WCCC, 2012). While the Salvation Army supplies a limited number of food parcels (milk, sugar, flour, noodles) with a budget of TOP 1,500 a month they rely on recipients identifying themselves to the organisation and as a result the programme is underutilised despite unmet need in the community.

It is clear that there is a general lack of information and statistics on vulnerable groups and also what people are consuming. The STEPS survey (World Health Organisation, 2012) funded by the WHO provides some useful data on NCD’s but the delay in publishing the survey or repeating it in a timely fashion has reduced its utility. The survey also does not provide critical information about differences by socio economic status or geography to assist in the identification of the most impacted groups. We understand that a Health and Demography Survey was carried out in 2012 but the results as yet are unavailable.

**Summary of points**

- Suggestion of the need for the introduction of Government led social protection programme given changing practices in supporting communities.
- Need for greater information about NGO activities such as - what services/welfare they are providing to vulnerable groups.
- Greater coordination of NGO activities and sharing of information.
- Need for an appropriate household level survey on what foods Tongans are eating.
- More timely surveys required as well as active dissemination of information, disaggregated into marginalised groups.
- Need for better health information including long-term costs.

**Theme Five: Consumer empowerment and mobilizing partners**

“*Healthy choices are not easy choices*” (NGO)

The view of NGOs consulted was that there was no real desire or “spirit of collaboration” in terms of working together or actively being involved in a collaborative manner on food security particularly between government organisations. They also acknowledged that food security was an issue that impacted on all of them; however, because of the specific focus each organisation had, none gave significant attention to it. As discussed earlier, ‘grassroots’ advocacy is a critical element of shifting government agendas on issues important to individuals and community food ‘choices’. A need was expressed for NGOs to
coordinate around food security issues to give greater voice to the communities that they worked with. There was also much discussion of the need for the Consumer Act to have effective processes of implementation to fulfill its intent. As discussed earlier, few resources have been made available for the implementation of the Act both in terms of complaints and in terms of enforcement of food quality and safety standards. It was frequently discussed through the interviews that consumers and communities needed better information about what they were consuming and potential hazards (such as pesticides and herbicides). There is both limited consumer education as well as avenues for them to act.

Theme Five Outcomes: Individuals, communities, producers and governments empowered with information about food security and the skills to make informed decisions and healthy choices

Highlighted again is that there is currently a lack of effective collaboration amongst sectors and interested organisations in the area of food security in Tonga. There was clear need identified for the development and support of champions of food security issues. Such champions include government and community leaders – both individual and organisational - as well as through activities such as this current project that promote discussion and action on food security. Although we did not consult with private producers or businesses it was clear that there was a need to ensure these groups’ perspectives were taken into consideration in any strategic development in this area. This would be particularly important if the strategic approach calls for a change in the context in which businesses operate. Private interests need to be fostered so they can respond with innovation and adaptation to enable a more food secure environment.

Summary of points

- Need to strengthen the implementation of the Consumer Act including both processes for consumer complaints and addressing breaches of safety.
- Greater inclusion of NGOs in development of strategy for food security.
- Greater representation of relevant producer and business representatives in the development of strategy for food security.
- Need to ensure community a perspective are represented in strategy development policies and is strongly grounded in community needs.

Need to foster and develop champions of food security and possible roles in coordinating the activities among various food security related committees existing.

**Theme Six: Food security information system**

As indicated throughout this report, the food control and food quality assurance function in Tonga is not exercised by a single ministry or agency of the government. Presently, the Ministry of Health and the Public Health Act 1992 are responsible for protecting the safety of consumer’s health from the sale of unwholesome, unsafe, poisonous and adulterated foods. However, as discussed earlier, to date no regulations have been developed under the Public Health Act, 1992. The only regulations that exist are from the preceding Public Health Act. These regulations are considered inadequate (Nuampong, 2006) and are primarily for sanitary requirements for specific sectors/issues such as bakeries and bread vendors, restaurants and food stores and meat. Part of the Ministry of Health’s responsibility through the Public Health Act is the collection of data and information related to the registration of all food premises, food processing establishments, retailers, and food vendors including milk suppliers.

Where regulatory activity is occurring, it was clear from our consultation, that there is duplication related to gathering and managing data and information processing in relation to
food. For example, the Consumer Protection Act 2000 administered by the MCLT also has provisions for the protection of consumers and the establishment of fair trade practices in all goods where goods are defined as any consumer goods of whatever nature sold. Since the definition does not specifically exclude food, the Act applies with equal force to food. The MCTL’s duties include receiving and investigating complaints from individuals and consumer groups. The Minister may appoint investigators under the Act and may also by regulation prescribe approved standards for any goods after such consultations as he deems necessary. At the same time food businesses and food sales that fall within the definition of “business activity” under the Business Licences Act, 2002 are also required to obtain business licences from the MCTL (Nuampong, 2006) in addition to fulfilling certification requirements for the Public Health Act.

The consultation revealed that a substantial challenge in this coordination was collaboration and sharing of data and information. Collecting good and reliable data is essential given the multiple sources of information related to food. There was an obvious need for data to be linked within departments, between ministries and to a certain degree at a regional level in order to enable analysis and produce meaningful and timely information to guide policy and monitor implementation. The data that is currently collected by various agencies is often focused on food control, trade and quality without contextual information about the broader aspects of food in terms of society and human health.

The interviews revealed that there was a need for special surveys to be conducted and utilised to monitor and evaluate food security if not its specific components in addition to the ‘routine’ data collected. These may include the STEPS survey, Demographic Health Surveys, Nutrition surveys, Agricultural surveys, food related hospitalisations, and non-government surveys and activities. A comparison of similar data from different sources such as food businesses, food premises certifications and food licensing bodies would be useful for monitoring and evaluating the quality of the various data sources and respective processes.

Our consultation highlighted that data on fishery resources both inshore and deep sea was inadequate. Concerns from Tonga’s National Fisheries Council (who were consulted via email) are the lack of commitment to developing the local fishing industry. Currently, there is only one local active tuna fishing vessel compared to twenty six local vessels in 2004 and out of twenty active snapper fishing vessels in 2000 there are now seven. Rather than reviving the domestic fishing industry, foreign tuna fishing vessels are increasingly encouraged with a minimal license fee to fish Tonga’s waters with no limits to their catch. Confounding the lack of data on catch, 99% of tuna fish caught are unloaded in foreign ports with no records readily available. The potential opportunity for the local economy and employment as well as knowledge transfer if the catch is offloaded and processed in Tonga is therefore forfeited. Unfortunately, the requirements for foreign fishing vessels to qualify for license and obligations to the governments are far less rigorous than that applied to local fishing boats. In fact one of the local fishing companies is considering applying as a foreign fishing company in order to avoid limitations and reporting of their catch as well as the freedom to offload overseas.

**Theme Six: Outcome. A comprehensive food security intelligence capacity established to document progress, identify vulnerabilities, spread innovation and provide evidence for appropriate implementation of programmes**

How is Tonga going in achieving this outcome? Having a research agenda was discussed as extremely important by those interviewed; however, it was felt that the environment was very limited for nurturing good, useful research. As discussed under Theme Four, there was a need expressed for indicators on people of different social, economic and health status who are vulnerable and in particular women and children. This would unmask the averaging
effect of national crude figures. In addition, data on various forms of disability would be an important step in addressing the needs of vulnerable groups. The data on socioeconomic status is important as it has a direct bearing on individuals and families’ capacity to access and utilise food as well as enabling targeted intervention for the vulnerable and its monitoring.

The benefits of being able to link good data cannot be over emphasised. In addition to routine and special surveys a need was also identified to collect physical and psychological data as evident from recent work of the relationship between domestic abuse and food access (Matheson, Foliaki, Matheson, & Cook, 2012). Our interviews with NGOs suggest that both physical and psychological abuse were more likely to occur in households with lower food security status. The food security status of children and women is not adequately expressed with ‘routine’ health and physical indicators such as nutritional or morbidity measures. Earlier markers such as the number of school children with adequate breakfast and school lunch items, domestic abuse and physical and psychological abuse are also required to complete the picture.

It is essential to disaggregate data by socio-economic position to enable targeted intervention and monitoring. In Tonga’s case, given the country’s scarce resources and donors being a long-standing feature, the need to identify where interventions are most effective and needed is a priority. There is also basic need for the identification and a consensus on what are appropriate (and simple) national indicators that could be included among the various data collected to gauge food security.

In addition, it was also clear from the consultation that geographic specific data is needed to monitor the range and trend in socio-economic position, and patterns of food utilization, accessibility and availability. There is also a need for better auditing of data and the data system for adequacy and accuracy, especially given the general consensus from participants that not only is there lack of information but a disconnection and at times duplication of data collection activities and a lack of capacity and priority for analysis and availability of appropriate information in a timely manner. It is clear that there is a need for a research environment more capable of nurturing and operationalising the collection and analysis of data for policy decisions and monitoring, as well as to better support routine administrative data collections.

Summary of points

- Need to review and strengthen the capacity to collect, store, coordinate, integrate and utilise data for food security implementation, policy and monitoring.
- Need to identify key indicators including special and specific indicators (vulnerable, poverty, children and women) appropriate for monitoring and evaluation of national and regional food security activities, outputs and policy.
- Key indicators of relevance in neighbouring countries (such work has been done recently in Tuvalu and Fiji for example) should be reviewed for local relevance and regional applicability.
- More timely monitoring and evaluation activities of recommendations and implementation of policies directly related to food security.

Theme Seven: Cross Cutting areas:

The main issues that emerged from the consultation that related to wider influences included:

- Land
  - Internal migrants lacking land for gardening
Unequal access to land – in particular for women
Urbanisation and mortgage of agricultural land

Transport
- Expensive to transport crops from outer islands
- Fuel expensive for local travel, coastal fishing
- Road access to garden plots unsatisfactory
- Transparent and strategically aligned project selection and implementation

The consultation clearly showed there was a view that to address food security, land use and land tenure rights must also be addressed. It was clear through the interviews that discussions on land issues are often viewed as ‘sensitive’ and at best ignored in discussions of solutions to addressing food security and local production. Women cannot own land in Tonga (although they have recently been allowed to lease land) therefore cannot legally own a piece of land to build a dwelling on let alone to grow food on for livelihood or income. Women are the food managers of the household and research has shown that in this role women often ensure others are fed before themselves (Matheson et al., 2012). Internal migrants from the outer islands to Tongatapu also have very limited access to land to grow food according to personnel from MAFFF but often face ‘rental’ obligations to Tongatapu landholders at the same time as having no formal income or with incomes that could only support a “grow your own” food budget.

A recurring theme through the interviews was the high cost of transport between the islands that impacts on the utility of fertile lands. For example Tofua Island and some of the fertile western volcanic island ranges are large enough to support permanent residents as well as the potential to supplement agricultural production but are not often serviced via regular domestic shipping routes, as well as the absence of road networks within these islands. Where shipping is available, the costs of cooling storage facilities are expensive and products such as vegetables or marine food products cannot economically be stored so that the surplus can be transported to the main centre.

The push for mono cropping for export needs to be balanced with local food security requirements. It has been argued that mono-cropping can lead to the creation of a wealthy middleman with the ability to negotiate with overseas buyers. The family farmer will often sell his land to the middleman and become a labourer on his previous lot, his income now depending solely on the price of his squash as determined by a Japanese market (pers. com Pita Taufatofua, Private Agricultural Specialist). He no longer has either time or land to plant his own food. Among those most at risk of losing access to land are small-scale producers who do not have formal tenure over the land that they use, as well as other minority groups that have traditionally been marginalized including women and fishermen (International Fund for Agricultural Development). They also often lack titles or have difficulty accessing centres where titles are registered or navigating the processes of registration.

Theme Seven Outcome: Effective land use, energy, transport, communication and education support to food security:

Some very substantial challenges exist in the wider context for addressing food security in Tonga. It seems the legality of women owning land needs to be debated from a moral, ethical and human rights perspective. The continued existence of legislation making it illegal for women to own land means that the passage from a status of being married to widowhood is immediately accompanied by women losing their power to decide on land issues as land ownership is shifted to the next eligible male. The contribution of women to agriculture and food security will be significantly enhanced through giving them the right to own land and cultivate food for domestic consumption and income.
There is a tension between growing crops for export and the availability of land for cultivating food for local consumption. There is also a tension between growing export crops which deplete the soil and depend on a high use of chemicals, pesticides and herbicides versus sustainable agricultural practices that adopt traditional fallowing (Stevens, 1999). Currently, there is a lack of information on how these tensions are playing out, and a lack of effective mechanisms to manage them.

There are opportunities apparent in the discussions above such as considering alternatives for making the transport of food from outer islands less expensive to the populated main island which could address not only cost of local food but contribute to the economy. Such opportunities could also provide incentives for would-be migrants to remain in their respective islands to cultivate food and ship these to the main centres for income.

There is a clear need for all commercial fishing (foreign and local) vessels to fish with obligations to supply data, limit catch, and contribute to the economy through tax and processing of catch locally. There is a compelling argument to develop the fishing industry given Tonga consists of more than 98% ocean and less than 2% land yet fresh fish is increasingly out of local Tongans reach.

The consultation highlighted that there was a need for alternative sources of affordable energy such as solar power for storage of food, particularly to improve accessibility and quality of local food – for example cool stores as opposed to salt preservation. The outer islands access to marine food sources could have their income further supplemented by affordable cool storage facilities before produce is transported to the main centres. There is clear support for local independent food processing and retailing as well as community/women groups classes/education in gardening, food preparation and storage skills should be incorporated into any food security strategies.

**Summary of points**

- Land ownership issues need to be considered – especially for women.
- Consideration of the impact on family food security of mortgaging of agricultural land for cash loans needs review.
- Need for exploration of alternative and sustainable sources of environmentally appropriate energy for storing and distribution of food items.
- Consider greater support for cheaper internal transport for food distribution and as an incentive for outer islanders to remain in respective islands to cultivate food for income from residents of main centres.
- Need for revival of fisheries and strengthen local ownership of fishing rights and incentives.
- Need for more appropriate legislation for taxation and income from foreign fishing companies.
- Consider greater support for local food processing and community/local institutions (hospitals, businesses,) women initiatives for food income activities.
- Greater consideration needed of the impact of development on the environment and food security needs including assessment and monitoring.
- Suggestion that a consultation and national review is needed to determine the need for a supply of staple food reserve and amount of reserve required (duration).
- Need for greater community education on food in partnership with evolving technology.
Women, children and vulnerable groups

The Terms of Reference for this project required a focus on children, women and vulnerable groups. Due to the interaction and overlap amongst the Themes of the impact on these groups, these issues are referred to throughout this report in various contexts. To summarise, we have referred to the need for up to date information on micronutrients including anaemia, special surveys on mental and physical disability and the socioeconomic and health costs of chronic disability due to unhealthy diets. Although all the interviewees were based at the main island of Tongatapu except for one who is based at ‘Eua, the interviewees highlighted various reasons for the flow of migration to the main island. Among these are the lack of employment opportunities in the outer islands leading to poorer communities and greater exposure to social and economic hardships. Other than farming and fishing, the rural and outer island populations lack alternative incomes. Access to marketing of any surplus crops to the main island is limited due to high transport costs and lack of affordable cooling storage facilities mentioned above. At the same time access to basic goods and services including health are also more limited for the outer islands and to a lesser extend the so called rural areas in the main island. We have also mentioned the particularly vulnerable situation women face due to their inability to own land. Women’s contribution to their families’ subsistence and in particular to nurturing and safeguarding the welfare and development of young children has the potential to disintegrate in a situation of poverty. This situation may be exacerbated by their inability to own land and build a secure social and economic base. From our consultations it would appear that women, children, rural and outer islands populations, smallholder farmers and subsistence fishers represent the bulk of the vulnerable in Tonga.
RECOMMENDED STRATEGIC ACTIONS

This report provides the context and lays the groundwork for the development of a Food Security strategy for Tonga. The recommendations are divided into five “Strategic Actions”. Under the strategic actions are possible mechanisms that require further consideration by the different stakeholders in the process of policy development to progress food security in the Tongan context.

We understand (from discussions with local counterparts) that Tonga is conducting a national consultation on food security to accompany the push for the Food Security Bill which had recently passed as well as promoting assistance from international organizations in facilitating local processes resulting in the recent Food Taxation legislation for example.

**Strategic Action I: Address the Food Policy Implementation Gap**

The main problem as perceived by respondents is not overall the lack of strategy and policy but the more practical issue of implementation failure. This is manifest in a variety of ways as noted in this report; legislative approaches have been taken, but no regulations developed to action them; intersectoral meetings have been held, but no outcomes documents or action plans produced; high level policy decisions have been made, but these have not been matched with the resources required or the organisational arrangements for their implementation. The impact of implementation gaps is wider than the issues of food security. The failure to implement existing policies not only impacts on the specific issue, but undermines confidence in government and democratic processes. The recent passage of the Food Bill provides an opportunity to follow through on the process of implementation, and should be given the highest priority.

Possible Mechanisms:

- Ensure the Food Bill (2012) has regulations developed, and the implementation, including the agency coordinating mechanism, as well as a robust monitoring and evaluation component that are appropriately budgeted and resourced.

- Produce a formal report on the Tonga Food Summit, action plan, implementation mechanism and resources commitment to support the findings of the Tongan Food Summit meeting of 2011. Such a report would be helpful for the information and knowledge learned from the summit to be captured and feed into the next stages of developing a plan for food security for example.

**Strategic Action II: Political Leadership on Food Security:**

Parliament to clearly state the importance of Food Security as a core government goal and reflect this in the accountabilities of all the relevant government agencies. This is important to break down the silos that currently exist in food security and to align the work of government agencies to a comprehensive goal, including the social (health) economic and environmental outcomes that it wants to achieve.

Possible mechanisms:

- Responsibilities for interagency work on food security are articulated in social economic accountability arrangements.

- Clear statement from government regarding population health as a priority, leveraging off the statement of the Pacific Health Ministers as well as regional and global UN and WHA declaration and health targets.
Strategic Action II: Societal leadership on Food Security

Community leadership, with the engagement of the main stakeholders, is important to sustain support for food security efforts. Champions of food security at the family, community and national levels need development and recognition. Possible mechanisms:

- Establish a Food Security stakeholders (in consultation with or guided by the Food Authority established by the recently approved Food Bill) group with a paid secretariat that includes government, NGOs, civil society, churches, farmers and food businesses.
- By building on existing activities such as the Food Summit, work in partnership with a stakeholders group to develop a food security strategy and action plan in consultation with and guided by the Food Authority established by the recently approved Food Bill.


Effective government activity on food security needs to be well coordinated as impacts of decisions on food security in one arm of government are often felt by other arms of government. Overlaps and gaps in current activities need to be addressed, alongside improved implementation of government policies, and a greater emphasis on sustainability of actions.

Possible mechanisms:

- Establish a high level cross government committee (as stipulated in the recent Food Bill for a Food Authority) with a strong secretariat that:
  - By building on existing activities such as the Food Summit, develops an inclusive, strategic roadmap to achieve greater food security, in partnership with the stakeholders group.

- Potential issues to be considered:
  - Implement government led social protection programme for vulnerable families to ensure they can access a healthy diet.
  - Continuing appropriate legislation and regulations for food related taxation in support of the recently passed legislation on Food Taxation.
  - Ensure adequate return for the Tongan government from foreign fishing activities.
  - Conduct consultation review of the need for a national food (staple) buffer stock.
  - Community education on food in partnership with evolving technology in the school curriculum.
  - Explore opportunities for public health provisions within trade agreements.
  - Advance the findings and progress of the Sub-regional Trade and NCD workshop one successful example being the recent approval of the food taxation legislation.
  - Address trade policies that are more favourable conditions for foreign firms than local – for example fisheries.
  - Implement or strengthen locally supportive policies such as:
    - “Buy Tonga made”
    - Increase incentives for innovation within local markets not just for exporters and partnership with women and community group in local food preparation for local consumption.
- Address seasonality in crops so that more local food is available in the off-season
- Facilitate food transport and storage from outer islands with appropriate mechanism including facilitating partnership arrangements between outer island growers and fishing groups with consumers in the main island, transport and energy providers.

**Strategic Action IV: Strengthen the voice and participation and protection of vulnerable and marginalised groups in food policy and actions.**

Despite a keen interest in food issues, NGO groups in Tonga lacked the expertise, resources and knowledge to effectively partner with government in support of food security policy. There is no NGO with a special focus on food. While there was an awareness that food scarcity was impacting on marginalised groups, there was a lack of quantitative information about the extent of the difficulty some families face.

Possible Mechanisms

- Support coordination of NGO activities and sharing information regarding food related community needs
- Include NGOs and communities in the development of a food security policy

Potential issues to be considered

- Support women's quest for secure access and ownership of land
- Support for cheaper internal transport as an incentive for outer islanders to remain in respective islands to cultivate food for income from residents of main centres
- Strengthen and incentivise local participation in and ownership of fishing in partnership with government
- Support local food processing for community/ local institutions (hospitals, businesses)

**Strategic Action V: Shape and develop local data to optimise its use in decision making to improve Food Security in Tonga**

- Develop a surveillance system to provide relevant and timely information about food security, including nutritional content, contaminants, cost, availability, safety for example.
- Include special and specific indicators for the vulnerable, the poor, children and women, appropriate for monitoring and evaluation of national and regional food security activities, outputs and policy
- Present to parliament and the public an annual report covering progress being made across the full breadth of food security. This would include monitoring and evaluation activities of recommendations and implementation of policies directly related to food security, the impact of on the environment.
- Develop a definition of food security relevant to the context of the Pacific region.
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APPENDIX A: Interview Guide

The aims of the consultation are: 1) to draft a Vision for food security (FS) in Tonga; 2) draft a set of key guiding principles underpinning this Vision; and 3) draft a set of key policy areas - as well as summarising the findings from the consultation discussion.

Approach to discussion of the seven themes developed within the Framework for Action on Food Security in the Pacific (the Framework)

For each of the seven themes detailed in the Framework, an ‘expected outcome’ is described. Informants in this consultation will be asked their views on the ‘expected outcome’ as well as what they believe needs to be undertaken to achieve the ‘expected outcome’ from the perspective of their own organisational context and individual role. Both facilitating factors and challenges to achieving these outcomes within the Tongan context will be discussed, including the wider regional and international influences.

Theme One: Leadership and cooperation
Outcome: Strong leadership and effective multi-sectoral coordination for food security regionally and nationally

Prompts
- how to integrate FS in local and regional political agenda
- capacity for multi-sectoral collaboration around designing and implementing solutions
- engagement of public, private and civil society
- ability to access adequate funding and resources to fund actions on FS

Theme Two: Regulatory frameworks, enforcement and compliance and public-private sector collaboration
Outcome: Strengthened food regulatory frameworks, enforcement and compliance capacities and public-private sector collaboration

Prompts
- strengthen legislative frameworks and harmonise standards – in line with national needs and international trade agreements
- strengthen public sector to better monitor, enforce and implement food legislative frameworks
- how to effectively involve stakeholders in the formulation of legislative frameworks and improve private sector compliance
- strengthen public-private collaboration for mandatory and voluntary measures

Theme Three: Enhanced and sustainable production, processing, marketing, trading and use of safe and nutritious local food
Outcome: Improved production, processing, marketing, trading and use of safe and nutritious local food

Prompts
- develop and strengthen policy, legal and regulatory frameworks for sustainable production and trade of agriculture, aquaculture, forestry and fisheries’ products.
- Increase production, productivity and resilience of agriculture and fisheries’ systems
- Increase the contribution of oceanic fisheries’ resources to the domestic food supplies and employment
- Enhance food processing capacity and value-added
- Increase competitiveness and trade
- Promote sustainable management of land freshwater, agro biodiversity and marine resources
Theme Four: Protect infants and vulnerable groups
Outcome: Increased well-being, reduced illnesses, disabilities, and premature deaths associated with a lack of food security
Prompts
- Identifying vulnerable population groups and ensuring interventions reach them
- Promotion of breast-feeding and introductions of good complementary foods
- Promote lifestyles and good nutrition to impact obesity and NCDs
- Social protection for the poor
- Food and nutrition for pregnant mothers, children, elderly, disabled
- Protect from impacts of climate change and natural disasters
- Strategies to address rapid population

Theme Five: Consumer empowerment and mobilizing partners
Outcome: Individuals, communities, producers and governments empowered with information about food security and the skills to make informed decisions and healthy choices
Prompts
- Education about FS and links with other outcomes (health, economic etc.)
- Evidence-based advocacy to promote FS
- Communication campaigns promoting healthy choices and supportive environments
- Formulation and use of appropriate and coordinated guidelines and tools for education and promotion

Theme Six: Food security information system
Outcome: A comprehensive food security intelligence capacity established to document progress, identify vulnerabilities, spread innovation and provide evidence for appropriate implementation of programmes
Prompts
- Building on existing information and monitoring systems
- Assessing economic, social and environmental impacts in relation to FS to inform policies and interventions
- Building human and technical capacity to collect and make sense of data to inform policy

Theme Seven: Cross Cutting areas:
Outcome: Effective land use, energy, transport, communication and education support to food security
Prompts
- Enhancement of land tenure systems and land use policies to increase availability of agricultural land
- Strengthening transport and infrastructure
- Increase access to energy and energy security for food production, transport and storage
- Improve transport infrastructure – roads, ports, wharves, food storage
- Expand ICT coverage to remote and rural areas
- Incorporation for food and nutrition elements into schools and places to instil the importance of FS at a young age
APPENDIX B:  List of Participants

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Also in charge of Food Bill and National Codex

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Head of Fisheries Division

Mr. Manaia Halafihi
Head of Extension Services

Mr. Lolomanaia Fili
Officer in Charge of ‘Eua Branch

Mr. Tevita Faka’osi
Head of Forestry Division

Women & Children Crisis Centre
Ms. ‘Ofa-ki-Levuka Guttenbeil-Likiliki
Director

Public Service Association
Ms. Mele ‘Amanaki
Secretary General

Parliament of Tonga
Ms. Seinimili T. Fonua
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Tonga Department of Statistics
Mr. ‘Ata’ata Manuetoafa Finau
Government Statistician

Ministry of Commerce, Tourism and Labour
Ms. Salote Vaimoana Taukolo
Deputy Director, TradeInvest & Business Development Support

Tonga Red Cross
Mr. Sione Taumoefolau
Secretary General

Salvation Army
Mr. Faleata Leha, Social Services

**Others consulted**
(by email, phone or in review of the draft report)

**Attorney General’s Office**
Mr. 'Aminiasi Kefu
Solicitor General

**Tonga’s National Fisheries Council**
Mr. Semisi Fakahau

**Pacific Islands Tuna Industry Association**
Secretariat (Tonga office)

**Pita Taufatofua**
Pacific Agricultural Specialist
APPENDIX C: Food Bill 2012

FOOD BILL 2012
### FOOD BILL 2012

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FOOD BILL 2012

A BILL FOR AN ACT TO REGULATE THE MANUFACTURE, SALE, IMPORT AND EXPORT OF FOOD FOR COMMERCIAL PURPOSES, TO GUARANTEE FOOD SAFETY AND FITNESS FOR HUMAN CONSUMPTION, TO PROMOTE FAIR TRADE PRACTICES IN FOOD AND TO PROVIDE FOR RELATED MATTERS

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART I - PRELIMINARY

1 Short Title
This Act may be cited as the Food Act 2012.

2 Interpretation
In this Act, unless the context otherwise requires:

“adulterate” means to make impure in order to give a false impression or value or to hide defects, by the addition of a foreign, inferior or inert substance to food, or by the exclusion or removal of a valuable or necessary ingredient of food;

“advertisement” includes any representation – written, pictorial, visual or otherwise – made for the purpose of promoting directly or indirectly the sale or disposal of any food or any substance represented as food;

“appliance” means the whole or any part of any implement, machine, instrument, apparatus or other object used or capable of being used in or in connection with the production, manufacture, treatment, packing, packaging, labelling, transport, handling, serving or storage of any food;

...
“Authority” means the National Food Authority established under section 3 of this Act;

“authorized officer” means a person authorized and qualified to act as such under section 10(1)(b) of this Act;

“Codex Alimentarius Commission” means the World Organisation responsible for Food Safety Standards for international trade in food and food products;

“contaminant” means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry and veterinary medicine), manufacture, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination, but does not include insect fragments, rodent hairs or other extraneous matter;

“contamination” means the introduction or occurrence of a contaminant in food;

“Council” means the National Food Council of the Authority established under section 6 of this Act;

“Court” means a court with the competent legal authority;

“Director” means the Director of the Authority;

“export” means to take or cause to be taken out of the Kingdom for commercial purposes;

“exporter” includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any food taken out of or intended to be taken out of the Kingdom;

“food additive” means any substance not normally consumed as food by itself and not normally used as a typical ingredient of food, whether or not it has a nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the production, manufacture, preparation, treatment, packing, packaging, transport or storage of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food, but does not include contaminants or substances added to food for the purpose of maintaining or improving nutritional qualities;

“food business” means any business, where production, manufacture, preparation, treatment, packing, packaging, transport, handling, labelling, grading, serving, storage or sale in relation to food is carried out for commercial purposes;

“food production chain” means all stages of production from primary production of food to food handling and food sale;

“food safety” means the assurance that food will not cause harm to the consumer when it is prepared or eaten according to its intended use;

“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 production, manufacture, preparation or treatment of food, but does not include cosmetics or tobacco or substances used only as drugs;

“import” means to bring or cause to be brought within the Kingdom for commercial purposes;
“importer” includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any food brought in or intended to be brought within the Kingdom;

“improvement notice” means a notice served under section 21 of this Act;

“ingredient” means any substance, including a food additive, used in the manufacture or preparation of a food and present in the final product;

“IPPC” means World Organisation responsible for Phytosanitary Standards for international trades in plants and plant products;

“label” means any tag, brand, mark, pictorial or other descriptive matter written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food or its package;

“manufacture” includes processing and preservation and other related activities;

“Minister” means the Minister responsible for Food;

“official analyst” means a person authorized and qualified to act as such under section 10(1)(c) of this Act;

“official laboratory” means a laboratory designated or approved as such under section 10(2) of this Act;

“OIE” means the World Organisation for Animal Health responsible for Animal Health Standards for international trade in Animal’s products;

“package” includes anything in which food is wholly or partially placed or wrapped;

“premises” includes any building, tent or other structure, permanent or otherwise, together with the land on which same is situated and any adjoining land employed in connection therewith, used for the production, manufacture, packing, packaging, transport, handling, serving, storage or sale of any food;

“production” means the cultivation, rearing or growing of food including harvesting, milking and farmed animal production prior to slaughter;

“scientific sub-committee” means the sub-committee established in section 8(5)(a) of this Act;

“sell” includes to offer, advertise, keep, store, display, transmit, consign, convey or deliver for sale, or to exchange or to dispose of to any person in any manner whether for a consideration or otherwise, and “sold”, “selling” and “sale” shall have corresponding meanings;

“stages of production” includes import, storage, transport and sale;

“street food” means ready-to-eat food prepared, sold or offered for consumption in streets and other public places;

“substance” includes any solid, liquid or gaseous materials;

“traceability” means the ability to follow the movement of a food through specified stages of production, processing and distribution;

“treated” means coloured, stained, powdered, polished, coated, mixed, preserved, flavoured, diluted or thickened with any substance, and “treat” and “treatment” shall have corresponding meanings;
“**unsanitary conditions**” means such conditions or circumstances as might cause contamination of food or render the same injurious or dangerous to health;

“**vehicle**” means any vessel, aircraft, conveyance, cart, container, animal or other thing that can transport food from one place to another; and

“**wholesome**”, in relation to food, means to be natural, clean, safe and not adulterated.

**PART II – ADMINISTRATION**

3 **Establishment of National Food Authority**

   (1) There is hereby established the National Food Authority.

   (2) The chief executive officer of the Ministry responsible for food shall be the National Food Authority under this Act.

4 **Functions of the Authority**

   The principal functions of the Authority shall be to:

   (a) employ risk management with the goal of ensuring that all:
       (i) food produced in the Kingdom, whether for domestic consumption or export; and
       (ii) food distributed or marketed in the Kingdom, whatever its origin;
        meets the prescribed standards of food safety and food quality;

   (b) coordinate and harmonize food control activities in the Kingdom at all stages of production, manufacture and distribution;

   (c) prevent and protect against fraud in connection with the sale of food;

   (d) formulate strategies and policies on food, nutrition and food security, including procedures for emergency response, and monitor their implementation;

   (e) encourage and promote research on food matters to facilitate the development of the food industry within the Kingdom;

   (f) provide food safety and food quality inspection and certification services as necessary;

   (g) consult widely with all sectors of the food chain in carrying out its activities under this section;

   (h) provide advice, information or assistance to any public authority in relation to food control, food safety, food quality assurance and food trade;

   (i) obtain, compile and keep under review information concerning food control, food safety, food quality assurance, food trade and nutrition in the Kingdom;

   (j) promote consumer education regarding food safety and nutrition; and

   (k) carry out any other matters in connection with or reasonably incidental to the foregoing.
5 **Budget and funds of the Authority**

In addition to an annual budgetary allocation from the Legislative Assembly, funds of the Authority shall include such moneys or other assets as may accrue to or vest in the Authority by way of grants, subsidies, donations or gifts.

6 **Establishment of National Food Council**

(1) There is hereby established the National Food Council.

(2) The Council shall consist of not less than three and not more than 7 members appointed by the Minister with the consent of Cabinet, and one of whom shall be appointed as chairman.

(3) The members of the Council shall hold office for a term of two years, and may be reappointed.

(4) The Council shall have the power to co-opt additional members.

(5) Additional co-opted members shall-

   (a) hold office for such periods of time and upon such terms and conditions as shall be determined by the Minister; and

   (b) have the same rights, powers and duties as members of the Council.

(6) Members of the Council shall be paid meeting fees according to government policy.

(7) The Minister may remove a member for misconduct, for infirmity of body or mind, for conflict of interests or for having been convicted of a crime.

(8) The quorum for the Council shall be at least one half of the Council members.

(9) The Council may make provision for the conduct of its meetings and the procedures to be followed at such meetings but shall meet at least four times annually.

7 **Secretariat**

(1) There shall be a secretariat responsible for supporting and facilitating the activities of the Council, including meetings and correspondence.

(2) The secretariat shall be appointed by the Authority.

8 **Functions of the Council**

(1) The functions of the Council shall be to:

   (a) advise the Authority on food control, food safety and food quality assurance matters, including the production, manufacture, import, export, labelling and sale of food, on consumer protection and emerging food control issues including street food and foods for catering purposes;

   (b) exercise oversight responsibility for the performance of the functions of the Authority;

   (c) provide assistance and advice on the formulation, review and implementation of food policy, including procedures for emergency response;
(d) propose and assist in the preparation and amendment of regulations, orders, standards, codes of practice, guidelines and notices under this Act;

(e) examine complaints and objections lodged in respect of decisions made or official actions taken under this Act;

(f) distribute information received from the Codex Alimentarius Commission, the IPPC, the OIE or other international or regional standard-setting bodies and coordinate the circulation of draft standards within the Kingdom and the collection of comments thereon from interested governmental and non-governmental actors;

(g) advise on the Kingdom’s participation in the work of the Codex Alimentarius Commission, the IPPC and the OIE and their subsidiary bodies, including representation at meetings;

(h) promote consumer education regarding food safety and nutrition;

(i) on its own initiative, discuss any matter connected with food in the Kingdom, and report to the Authority on its discussions; and

(j) perform all other functions assigned to it by this Act or by the Authority.

(2) The Council shall -

(a) submit an annual report to the Authority; and

(b) provide a copy of such report upon request to any member of the public.

(3) Members of the public may attend meetings of the Council if authorized by the Chairman of the Council.

(4) The Council may appoint such sub-committees as it deems necessary, to assist it in the performance of its functions.

(5) (a) Notwithstanding the provisions of sub-section 4, the Council shall appoint a scientific sub-committee to carry out food safety risk assessments and such other scientific tasks as may be assigned to it.

(b) The scientific sub-committee shall be responsible for:

(i) evaluating, in response to official requests or on its own initiative, physical, chemical or biological risks to human health arising throughout the food chain;

(ii) advising the Council, the Authority and the Minister on the appropriate measures to be taken to protect consumer health; and

(iii) providing inputs into or developing proposed regulations or rules on subject matters within its mandate.

(c) In carrying out its functions, the scientific sub-committee shall take into account:

(i) the latest scientific research;

(ii) information regarding procedures, methods and means of production;

(iii) the results of sampling and analysis; and

(iv) any other relevant data.
9 Minister's reserve powers

(1) If it appears to the Minister that there has been a serious failure by the Authority or the Council to exercise its functions, he may give the Authority or the Council, as the case may be, such directions as he considers appropriate.

(2) If the Authority or the Council fails to comply with such directions, the Minister may -

(a) give effect to them (and for that purpose may exercise any power of the Authority or the Council); or

(b) remove all the members of the Council from Office and, until new appointments are made, carry out the Authority’s functions himself or appoint any other person or persons to do so.

10 Minister's powers of appointment and designation

(1) The Minister may appoint or designate any person with the appropriate qualifications as:

(a) an additional co-opted member of the Council;

(b) an authorized officer to carry out the functions assigned to such officers under this Act; or

(c) an official analyst for purposes of enforcement of this Act.

(2) The Minister on the advice of the Council may designate any laboratory as an official laboratory for purposes of enforcement of this Act.

PART III – GENERAL PROVISIONS

11 Authority's power to limit or ban substances in food

The Authority may, on the basis of the results of scientific analysis or other credible scientific information and in accordance with applicable international standards, ban or set limits on the presence of additives, contaminants and residues in food or animal feed.

12 Authority's power to prohibit importation or cultivation

Where the Authority determines that food of any specified class or description if imported or cultivated, taken or harvested from a specific area of the Kingdom may be dangerous or injurious to persons consuming that food, it may by order prohibit the importation, cultivation, taking, harvesting or obtaining of that food.

13 Authority's emergency powers

In the case of emergency or sudden necessity, in order to prevent or reduce the risk of a serious danger to public health or to mitigate the adverse consequences of a danger to public health, the Authority may by order:

(a) totally prohibit the production, manufacture, preparation or sale of any food of the class specified by the Authority;
(b) impose conditions on the production, manufacture, preparation or sale of any food of that class;
(c) recall or otherwise cause to be removed from circulation any food of the class specified by the Authority in accordance with prescribed procedures;
(d) cause any food to be tested or examined as prescribed;
(e) cause any food to be held or isolated in any place and prohibit the removal of food from that place for such time as the Authority may prescribe; and
(f) cause any food to be destroyed or otherwise disposed of as the Authority sees fit.

14 Food businesses
(1) All premises, including warehouses used for the preparation, sale, exposure or storage of food shall comply with the standards prescribed in regulations made under this Act.
(2) All food businesses shall apply for a licence in accordance with the procedures to be prescribed in regulations under this Act.

15 Traceability
(1) Food businesses shall establish and implement a system enabling them to identify any person who was a:
   (a) supplier; or
   (b) receiver;
   of a food producing animal, food or substance intended to be or expected to be incorporated into a food.
(2) Upon request of the Authority, food businesses shall make available all information collected under the system established under sub-section (1).

16 Hygiene rules
Food businesses and their employees shall comply with all applicable hygiene rules established under this Act.

17 Labelling
(1) Every package of food intended for sale in the Kingdom shall contain a label which:
   (a) permits its traceability;
   (b) sets out such particulars as may be prescribed; and
   (c) is in the English or Tongan language or a combination of both.
(2) Where food other than packaged food is displayed for sale, it shall be labelled as prescribed in regulations made under this Act.
18 **Objects of inspections**

Authorised officers appointed under this Act shall have powers to inspect -

(a) food businesses and their surroundings and installations, as well as means of transportation, equipment and materials;

(b) food ingredients, additives, disinfectants and any substance or processes used in the production, manufacturing or handling of food;

(c) employees employed at the food business;

(d) packaging material;

(e) cleaning, disinfecting and maintenance at the food business; and

(f) labelling.

19 **Powers of authorized officers**

(1) Authorized officer shall have power to enter without a warrant at any time any food business, premises, vehicle, ship, aircraft or other conveyance for the purpose of-

(a) inspecting, searching and examining ingredient, food or appliances;

(b) requiring the owner or occupier to provide information regarding such ingredient, food or appliances;

(c) conducting such investigation and examination as are necessary to determine whether an offence has been committed or an obligation in relation to the standards and hygiene rules has been breached;

(d) requiring the production of any document relevant to the activity, matter or thing under investigation including any licence or permit required by this Act;

(e) monitoring any work carried out in the premises;

(f) reading any values recorded by measuring instruments installed on the premises or by instruments in the possession of the authorized officer;

(g) taking photographs;

(h) seizing any ingredient, food, appliance or document reasonably suspected of being used contrary to the provisions of this Act; and

(i) requiring from any person any assistance that is relevant to the investigation or examination activity.

(2) For the purpose of sub-section 1(h), the authorized officer shall provide the owner or occupier of the premises with a receipt signed by both the authorized officer and the owner or occupier of the premises.

(3) An authorized officer exercising his authority under this section may request the presence and assistance of a police officer as he may consider necessary.

(4) An authorized officer shall, for the purposes of searching such persons, have the power to stop, search and detain any person whom he has reasonable grounds to believe has committed an offence under this Act.
(5) An authorized officer shall have power to arrest any person whom he has reasonable grounds to believe has committed an offence under this Act.

(6) An authorized officer shall produce his official identification card upon request by any person affected by the exercise or performance of the authorized officer’s power, duty or function under this Act.

20 Rights and duties of owners and persons in charge of food businesses

During an inspection carried out under section 19, the owner or other person in charge of the food business or any employee present at the food business-

(a) may accompany the authorized officer;

(b) shall supply any information or documents requested by the authorized officer relating to installations, appliances, materials, procedures, processes or other matters relevant to any inspection; and

(c) shall permit the taking of samples and the gathering of evidence including photographs.

21 Improvement notice

If an authorized officer has reasonable grounds for believing that an owner or person in charge of a food business is failing to comply with this Act, he may serve an improvement notice on that owner or person in charge:

(a) stating the authorized officer’s grounds for believing that this Act is not being complied with;

(b) specifying the measures which the authorized officer deems that the owner or person in charge shall take in order to remedy the failures referred to in paragraph (a); and

(c) requiring the owner or person in charge to implement those measures, or measures which are at least equivalent to them, within the time period specified in the notice.

22 Food unfit for consumption

(1) Where it appears that any food at a food business is unfit for human consumption or is likely to cause harm or danger to human health, an authorized officer shall -

(a) seize and seal such food, and issue a written notice to the owner or person in charge of the food business that the food or any specified portion of it is temporarily not to be sold, removed, manipulated, tampered with or otherwise altered without the authorization of the authorized officer;

(b) issue a written notice temporarily ordering the food removed to a specified place; or

(c) issue a written notice ordering the immediate destruction of the food.

(2) Where any action is taken under sub-section (1) because of a threat to human health, the authorized officer shall immediately notify the Authority which shall take action to notify other relevant governmental and non-governmental parties so that all measures necessary to ensure public safety and the protection of consumers, including public
warnings, recall orders, marketing restrictions, marketing bans or other appropriate measures may be adopted.

(3) As soon as practicable, and in any event within 14 days, an authorized officer acting under sub-section (1)(a) or (b) shall review the situation at the affected food business to determine whether the circumstances that caused the notice no longer exist, and if the authorized officer:

(a) is so satisfied, he shall withdraw the notice and where appropriate, allow the release of any food from the place where it is stored; or

(b) is not so satisfied, he may order that any such food be destroyed or disposed of so as to prevent its being used for human consumption, and shall supervise the destruction of such food.

PART V – IMPORT AND EXPORT

23 Requirements for imported food

(1) No article of food shall be imported into the Kingdom unless it is accompanied by the prescribed documents and unless it is offered up for inspection by the Authority at the port of entry.

(2) The Minister on the advice of the Council may by regulation provide that certain articles of food shall not be imported into the Kingdom unless they have been produced or manufactured in accordance with the prescribed standards.

24 Inspection and sampling

(1) An authorized officer may inspect any food imported into the Kingdom and, for the purpose of analysis or inspection thereof, take samples of any such food.

(2) Without prejudice to the provisions of sub-section (1), the Minister may, on the basis of risk assessments, by order declare any foods to be high risk foods and any such food when imported into the Kingdom shall be subject to mandatory inspection, sampling and analysis and may only be released for distribution and sale if the results of the inspection, sampling and analysis confirm their fitness for human consumption.

(3) Where samples are taken under sub-section (1), the authorized officer shall, in the presence of the owner or importer or any person in control of the food, seal and mark them as prescribed.

(4) Where a sample is taken pursuant to sub-section (1), the consignment from which it was taken shall not be released by an authorized officer except upon production of an official analyst’s certificate to the effect that the food complies with the requirements of this Act.

(5) The costs of any inspection, analysis and storage while analysis is being performed shall be borne by the importer.
Re-labelling and re-conditioning

(1) Subject to the provisions of sub-section (2), the importation of any food which does not comply with the provisions of this Act is prohibited.

(2) Where any article of food sought to be imported into the Kingdom would, if sold in the Kingdom constitute a contravention of this Act, the Authority may nonetheless permit its importation solely for the purpose of re-labelling or re-conditioning as prescribed.

(3) In the event that any re-labelling or re-conditioning authorized under sub-section (2) is not carried out within the prescribed time period, the importer shall export or destroy such food at his expense.

(4) Where an importer fails to export or to destroy imported food as required under sub-section (3), the Authority may order the destruction of or may destroy the imported food.

(5) The Authority’s decision to order the destruction of or to destroy the food under sub-section (4) shall not prevent the Government from later recovering the costs of such destruction from the importer as a debt.

Requirements for the export of food

(1) No item of food shall be exported from the Kingdom unless it has been certified by the Authority in accordance with prescribed procedures as:
   (a) being fit for human consumption;
   (b) having been produced, manufactured or processed in accordance with prescribed standards; and
   (c) meeting the requirements of the importing country.

(2) The Authority shall be the competent authority for purposes of certification of food items for export.

PART VI – OFFENCES AND PENALTIES

Sale of unwholesome food

(1) Any person who sells any food that-
   (a) has in or upon it any poisonous or harmful substance;
   (b) is not wholesome or is otherwise unfit for human consumption;
   (c) is adulterated; or
   (d) is injurious to human health;
commits an offence.

(2) In determining whether an article of food is injurious to human health, due regard shall be given not only to the probable effect of such food on the health of a person consuming it, but also to the probable cumulative effect of articles of substantially similar composition on the health of a person consuming such articles in ordinary quantities.
28 Sale of food not meeting standards
   (1) Any person who prepares or sells any food for which there is a prescribed standard commits an offence unless the food complies with that standard.
   (2) Any person who sells any food which bears or has attached to it, or is contained in a package which bears or has attached to it, a name for a food for which there is a prescribed standard commits an offence unless the food complies with the prescribed standard for that food.

29 False or misleading labelling
   (1) Any person who packs or labels any food in a manner which is false or misleading or which does not comply with the labelling standards prescribed under this Act commits an offence.
   (2) Any person who sells any food with a false or misleading label or a label that does not comply with the labelling standards prescribed under this Act commits an offence.

30 General offences
   Any person who-
   (a) prepares, stores, handles or sells food under unsanitary conditions;
   (b) imports, exports, produces, manufactures, prepares, stores or sells food which otherwise violates any provision of this Act;
   (c) operates a food business without any licence required by this Act;
   (d) fails to comply with an order issued under section 12 or 13;
   (e) fails to establish and implement a traceability system in accordance with section 15(1);
   (f) fails to follow the applicable hygiene rules established under this Act;
   (g) fails to ensure that all employees of a food business follow prescribed procedures;
   (h) fails to label food as prescribed under section 17;
   (i) fails to comply with an improvement notice issued under section 21;
   (j) tampers with any food samples taken under this Act;
   (k) breaks any seal or alters any markings made by an authorized officer without permission;
   (l) fails to provide access, samples or information to an authorized officer upon request;
   (m) gives false information to an authorized officer;
   (n) attempts to improperly influence an authorized officer in the exercise of his official functions under this Act; or
   (o) poses as an authorized officer;
   commits an offence.
31 Offences by authorized officers

An authorized officer who-

(a) seizes food for any reason other than those prescribed in this Act;
(b) discloses any information acquired in the course of exercising his official functions under this Act except where required to do so by his supervisor or by any Court; or
(c) accepts any monetary or other benefit from a person affected by the exercise of official powers under this Act;

commits an offence

32 Publishing false or misleading advertisements

Any person who, for the purpose of effecting or promoting the sale of any food, publishes or causes to be published an advertisement which is false or misleading commits an offence.

33 Offences by bodies corporate

Where an offence under this Act which has been committed by a body corporate is proven to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of:

(a) any director, chief executive officer, manager or other similar officer of the body corporate; or
(b) any person who was purporting to act in the capacity of a director, chief executive officer, manager or similar officer;

that person as well as the body corporate shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

34 Penalties

(1) Any person who commits an offence under this Act shall be liable upon conviction –

(a) if it is an individual:
   (i) in the case of a first time offence to a fine not exceeding $10,000 or to imprisonment for a period not exceeding 3 years or both;
   (ii) in the case of a subsequent offence to a fine not exceeding $20,000 or to imprisonment for a period not exceeding 5 years or both; and
   (iii) where the offence is a continuing offence, to an additional fine not exceeding $300 or imprisonment for 30 days for each day on which the offence continues; and

(b) if it is a body corporate:
   (i) in the case of a first time offence to a fine not exceeding $50,000;
   (ii) in the case of a subsequent offence to a fine not exceeding $100,000; and
   (iii) where the offence is a continuing offence, to an additional fine not exceeding $5,000 for each day on which the offence continues.
Upon conviction of any person for any offence under this Act, the Court may, in addition to any other sentence imposed -

(a) suspend or cancel any licence to operate a food business issued to the convicted person; and

(b) declare any food, appliance, product, material, substance or other object in respect of which the offence has been committed or which was used in connection with the commission of the offence forfeited to the state and disposed of as the Court may direct.

35 Additional penalties

(1) If the owner of a food business is convicted of an offence under this Act, the Court before which he is convicted may by order impose a temporary or permanent prohibition:

(a) on the use of a particular process or particular equipment at the food business;

(b) on the use of the premises for the purposes of running a food business; or

(c) on the participation by the owner in the management of the food business with respect to which the offence was committed or with respect to any food business in the Kingdom.

(2) A Court shall cancel a temporary order issued under sub-section (1) where an authorized officer certifies that the conditions which led to the issuance of the order are no longer in effect.

PART VI – MISCELLANEOUS

36 Right of appeal

Any person aggrieved by an action or decision of an authorized officer or an official analyst under this Act may appeal to the Council within the prescribed time period and the decision of the Council shall be final.

37 Good faith defence

An authorized officer, official analyst or other representative of the Authority shall not be liable to suit or to prosecution in respect of anything done in good faith in the performance of his functions under this Act.

38 Presumptions

(1) In any proceedings under this Act, a certificate of analysis purporting to be signed by the director or head of an official laboratory or by an official analyst shall be accepted as prima facie evidence of the facts.

(2) Evidence that a package containing any food to which this Act applies bore a name, address or registered trademark of the food business or person by whom it was produced, manufactured or packed, shall be prima facie evidence that such food was produced, manufactured or packed, as the case may be by that food business or person.
(3) Any substance commonly used for human consumption, if sold or offered, or exposed or kept for sale, shall be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption.

(4) Any substance commonly used for human consumption shall be presumed, until the contrary is proved, to be intended for human consumption -
   (a) when found on premises used for the preparation, storage or sale of that substance; and
   (b) any substance commonly used in the production or manufacture of articles for human consumption which is found on premises used for the preparation, storage or sale of those articles.

(5) Any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises in which that article is prepared shall, until the contrary is proved, be presumed to be intended for such use.

(6) Where any person demands any food by a name prescribed for a food for which there is a standard prescribed, he shall be deemed to have demanded food which complies with that standard.

39 General defences

(1) In any proceedings for an offence under this Act it shall be a defence for the accused to establish that he could not with reasonable diligence have ascertained that the sale of the food would contravene this Act.

(2) It shall be a defence under section 29 to prove that someone could not reasonably have ascertained that the packaging or labelling was false or misleading.

40 Defences with regard to advertisements

In any proceedings under section 32 -

(a) it shall be up to the defendant to prove that he did not publish the advertisement or did not cause it to be published; and

(b) it shall be a defence for the defendant to prove either:
   (i) that he did not know or could not with reasonable diligence have ascertained that the advertisement was false or misleading; or
   (ii) that, being a person whose business it is to publish or arrange for the publication of advertisements, he received it in the ordinary course of business and did not make any material alterations to it.

41 Regulations

(1) The Minister may, with the consent of Cabinet, make regulations for the purpose of carrying out the provisions of this Act, and shall include but not limited to the following -
   (a) the control of the cultivation, production, manufacture, storage, transport, packing, packaging, labelling and sale of all types of food, including food that is organically
produced, genetically modified, dietetic or intended for infants or other population groups;

(b) the preparation, handling and serving of food;

(c) the construction, inspection and maintenance of food businesses, including hotels, boarding houses, guest houses, markets, grocery stores and businesses selling street food;

(d) the places at which, and the conditions under which, animals are slaughtered for human consumption;

(e) the places at which, and the conditions under which, poultry, fish products, dairy products and other foods of animal origin are produced, processed or packaged for sale;

(f) the places at which, and the conditions under which, crops are produced for food;

(g) the importation and exportation of foods, including any required documentation, inspection and certification procedures;

(h) the procedures applicable for the issuance, suspension and cancellation of licences to operate a food business;

(i) the acceptable levels of food additives, environmental contaminants, veterinary drugs, pesticides and other residues or other chemical and microbiological contaminants in foods;

(j) the procedures to be followed by authorized officers, official analysts and official laboratories in the exercise of their functions under this Act;

(k) food standards generally;

(l) the disposal or destruction of unsafe food;

(m) the fees payable in respect of the inspection and analysis of food;

(n) the forms to be used for the purposes of this Act, including applications, licences, permits, improvement notices and receipts for articles seized;

(o) offences and penalties; or

(p) any other matters deemed necessary to achieve the purposes of this Act.

(2) Notwithstanding the provisions of sub-section (1)(k), the standards, rules and recommended practices contained in the Codex Alimentarius adopted by the Codex Alimentarius Commission shall be deemed to apply as regulations under this Act until such time that regulations on food standards are made by the Minister.

42 Act shall prevail

In the event of any conflict or inconsistency between the provisions of this Act and any other enactment in force in the Kingdom, the provisions of this Act shall prevail.

Passed by the Legislative Assembly this day of 2012.