



SECOND FAO/WHO GLOBAL FORUM OF FOOD SAFETY REGULATORS
Bangkok, Thailand, 12-14 October 2004

**NATIONAL FOOD SAFETY LEGISLATION SHOULD EXPLICITLY RECOGNIZE
AND PROVIDE FOR DISCUSSION OF ETHICAL AND VALUE ASPECTS
OF FOOD SAFETY DECISIONS**
(Prepared by Consumers International)

Introduction

While it is universally agreed that food safety decisions must have a sound basis in scientific data and analysis, it is also generally recognized that science, by itself, is a necessary but insufficient basis for these decisions. In many dimensions, including judging the severity of a risk, determining the desired degree of safety, and choosing the preferred risk management options, food safety risk analysis requires weighing values and ethical perceptions. Decision-makers sometimes may tend to emphasize scientific facts, and to avoid openly making ethical decisions. However, an exclusive focus on science cannot make ethical issues disappear; usually it serves only to drive them “underground,” where they may polarize the debate over scientific facts, and make consensus decisions all that much harder to reach. It is therefore essential that food safety legislation should make explicit provision for decision-makers to identify and resolve the ethical and value choices that must be made in regulating food safety.

Background

Consider the following questions that may arise in many specific cases during food safety risk analysis:

- What is an acceptable degree of risk from this hazard? How safe is safe enough?
- How certain do we need to be about the accuracy of our risk assessments and the adequacy of our estimated margin of safety?
- How much precaution should be incorporated into the standard or decision?
- What is the appropriate balance between benefits and risks of this technology?
- How can the rights of consumers, to know what they are eating and to choose what they will eat, be protected?
- How can those consumer rights be balanced with the rights of producers and sellers to market (safe) foods, at a reasonable cost?
- Does food supplied as international food aid in the case of a hunger emergency have to meet the same safety standards as other food in international commerce, or can safety be compromised to ward off starvation?
- How can disagreements be resolved when different nations, perhaps with different cultural contexts, come to different conclusions on some of these issues?

All of the above questions, and many others that arise in food safety risk analysis, are ethical in nature, or have large ethical components. Trade disputes over food safety standards often are based on different ethical perceptions of the trading partners, or on conflicts between the rights of, for example,

some producers in exporting countries and some consumers and/or governments in importing countries. When rights conflict, such disputes can be satisfactorily resolved only by recognizing the rights and responsibilities of the parties involved, and openly negotiating a solution that respects everyone's rights. Decisions based on "science" that abrogate the rights of one group or another often will not be acceptable and will fail to resolve the dispute.

FAO Expert Consultation

Recognizing the importance of ethical debates within the food safety context, the FAO convened an expert consultation in Rome in September 2002. The report of that meeting,¹ published by FAO last year, should be widely read, especially by legislators and other officials involved in establishing national food safety systems. Some key observations from the report are summarized here.

There are two basic ethical frameworks that may be applied in designing a food safety system. The first approach is called *optimisation*, and grows out of the ethical traditions of utilitarianism (i.e., the greatest good for the greatest number). In this scheme, the task of the risk manager is to pick the *best* outcome (risk management option), based on the ratio of overall benefits to overall costs. This approach tends to rely on expert judgments by scientific and economic analysts in government agencies (and sometimes, increasingly, in the private sector). In the optimisation model, citizens delegate most responsibility for safety decision-making to expert authorities, and trust that the authorities are competent and are acting in the citizens' best interest. This approach is somewhat paternalistic (with government protecting consumers) and it tends to emphasize the common good, which may short-change the rights of minority groups to make their own choices.

An alternative ethical framework, applied in some food safety systems, is centred on the concept of *informed consent*. This approach was developed primarily in medical contexts (drug trials, experimental procedures, etc.), and puts greater emphasis on the rights of individuals. In particular, it holds that a person exposed to a risk has the right to be informed about, and to consent to taking, the risk. Translated to the realm of food safety, this approach emphasizes participation in decision-making as a means by which citizens can preserve and protect their rights. The informed consent approach tends to reduce reliance on government expertise and to delegate much responsibility for risk-taking or risk-avoiding decisions to consumers. Under this ethical scheme, there might be fewer bans of foods or additives that posed small risks, and more extensive labelling, supporting informed consumer choice. A major disadvantage of this approach is that, since not all consumers can or will adequately inform themselves, and not all groups within society will be able to participate effectively in policy-making, there may be minorities whose interests are not well served. And the overall level of risk to consumers may be higher, because of both uninformed individuals and willing risk-taking, than would be the case if government officials simply set strict standards limiting exposure to risks.

In most cases, national legislation incorporates some aspects of both ethical schemes. The two ethical approaches are somewhat in conflict with each other, and each nation must find its own appropriate blend, emphasizing the ethical values and perceptions that are part of its culture. It goes without saying that ethical preferences may differ from one country to another; there is no "one size fits all" ethical basis for food safety. But it is important, when crafting food safety legislation, to have an open, extended discussion of the ethical assumptions and approaches built into the laws. This is essential so that the ethical basis for decisions made under those same laws will be transparent and accurately understood.

National legislation can also foster an explicit treatment of value judgments and ethical choices in food safety risk analysis. For example, laws might require government safety officials to state, when explaining a food safety decision, whom it is designed to protect; what level of risk or margin of safety is acceptable; how certain the scientific evidence is, and how much precaution is appropriate to accommodate unavoidable uncertainties. Such clarity on ethical aspects can greatly improve risk

¹ FAO Expert Consultation on Food Safety: Science and Ethics. Rome, 3-5 September, 2002. FAO, Rome, August 2003. Available at: <http://www.fao.org/DOCREP/006/J0776E/j0776e02.htm>

communication; and conversely, better risk communication is likely to result in more effective discussion of ethical issues.

Recommendations

Consumers International *endorses* the FAO Expert Consultation's report on Food Safety: Science and Ethics. (We should also disclose that the head of CI's delegation at the Second Global Forum of Food Safety Regulators, Dr. Edward Groth, was an expert member of the consultation.)

We commend the report to national delegates at the Global Forum, and urge that the report be read, and its recommendations applied, as appropriate, in each member state.

CI would in particular like to endorse the following recommendations in the report:

- *WHO and FAO and The Codex Alimentarius Commission* should review their own food safety decision making processes, and explicate the ethical components.
- *The Code of Ethics for International Trade in Foods* should be finalised and adopted as a matter of priority.
- *Capacity Building* by international agencies should include training to incorporate in risk analysis both the explication and the justification of ethical and value judgments, as well as the application of science.
- *Capacity Building* for national food safety systems should include effective outreach and inclusiveness for all affected stakeholders.
- Food supplied as food aid should meet the same international food safety standards that apply to other foods traded internationally.

CI also notes that the report contains many other intelligent, useful recommendations, and hopes this report will be widely used by member governments.