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LEGAL BASIS FOR FOOD SAFETY OFFICIAL AND NON-OFFICIAL CONTROL:
“Strengthening official food safety control services”

(Paper prepared by South Africa)

1. INTRODUCTION

Various food inspection and certification systems have been implemented in a number of countries over a period of time as a response to the management of food borne risks to human health. For some time in South Africa it has been recognized that the control over foodstuffs is fragmented between a number of authorities and components at national, provincial and local level, as well as between several other organizations. Foodstuffs are not always regulated as foodstuffs but also as animals, animal products, plants or plant products. The objectives of such control relate to human health concerns such as food safety and nutrition, as well as to quality and to animal and plant health. The same commodity is therefore often controlled by several different authorities in relation to different sets of legislation albeit from different view points and for different reasons.

2. OFFICIAL CONTROL

Legislation and mandates of role players

The South African legislation relating to food and related matters and the authorities that are involved in the administration and enforcement of such legislation include the following:

2.1 Department of Health

- a) The Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972). This Act governs the manufacture, sale and importation of all foodstuffs from a safety/public health point of view and is administered by the Directorate: Food Control of the Department of Health. General law enforcement is conducted by authorized local authorities in their areas of jurisdiction while import control is exercised by the provincial health authorities on behalf of the national Department.
- b) The Health Act, 1977 (Act 63 of 1977). Regulations under this Act govern the hygiene aspects of food premises (including milking sheds) and the transport of food. These are also administered by the Directorate: Food Control of the Department of Health and enforced by local authorities in their areas of jurisdiction. Provincial health departments are however involved in enforcement in areas where there are no local authorities.
- c) The International Health Regulations Act, 1974 (Act 28 of 1974) has certain provisions that relate to food. The Department of Health is responsible for the approval of the source of food for consumption on the premises of ports and airports as well as on vessels and aircraft. It also states that such food must be handled in a hygienic manner. Currently the provincial health

authorities are conducting these approvals on behalf of the national Department. The Act requires local authorities to inspect the premises and take food samples for analysis.

- d) The Medicines and Related Substances Act, 1965 (Act 101 of 1965) is administered and enforced by the Directorate: Medicines Administration of the Department of Health. The Act *inter alia* makes provision for the registration of veterinary drugs, as well as for the registration of foodstuffs and food supplements with medicinal effects or in respect of which medicinal claims are made.

According to the Constitution, there are concurrent health legislative competencies for the national as well as the provincial departments.

The National Health Plan determines that the National Health Authority (NHA) is responsible for the development and provision of all health care in South Africa. This includes the formulation of national policy and strategic planning, as well as the co-ordination of planning and the functioning of the overall health system in the country. The NHA must develop guidelines, norms and standards to apply throughout the health system and transform policy into relevant integrated programmes in health development. The central level will elaborate policy statements and health legislation. The NHA must ensure the implementation of national priorities, plans and strategies whilst co-coordinating the organizations providing national services. International liaison is another listed function.

The following are some of the functions of the National Department of Health as listed in the White Paper:

- provide leadership in the formulation of health policy and legislation, including the development of a health system;
- provide leadership in quality assurance, including the formulation of norms and standards;
- develop a coordinated information system and monitor the progress made in the achievement of national health goals;
- provide appropriate regulation of the public and private health sectors, and regulate health-related activities in other sectors;
- liaise with national health departments in other countries and international agencies.

The White Paper also states that the Directorate of Food Control is responsible for developing standards for food hygiene, additives, labelling and identification, and ensuring food safety through regulation and public education, as well as the ratification of, and participation in, international standards. Legislation relevant to nutrition must be reviewed, strengthened, implemented and enforced:

- to protect breast-feeding, and to control the marketing of infant foods;
- for the mandatory iodination of salt;
- for the mandatory fortification of appropriate staple foods;
- to ensure food safety and quality.

The Foodstuffs, Cosmetics and Disinfectants Act, 1972, provides the Minister and the Director-General of Health with a number of mandates, most of which have been delegated to a lower level within the National Department, mostly within the Directorate: Food Control:

- the authorization of inspectors;
- the authorization of analysts;
- the authorization of local authorities;
- approve extended health detention;

- acceptance of a guarantee in respect of extended health detention;
- issuing an order in respect of the disposal of an imported foodstuff;
- make regulations as set out in Section 15 of the Act;
- approval to make known the contents of an analyst's report;
- apply any provision of the Act to any foodstuff in transit to another country;
- approve the sale of irradiated food.

The Directorate: Food Control is the National Contact Point for the Joint FAO/WHO Codex Alimentarius Commission in South Africa. This is by agreement with the other most important role players in this regard, namely the Department of Agriculture and the Department of Trade and Industry, and with the approval of the remaining members of the National Codex Committee, namely the Department of Foreign Affairs and the National Consumer Forum.

The White Paper also states that the Directorate: Nutrition is responsible for developing policies, strategies and guidelines for a national integrated nutrition programme, while the National Forensic Chemistry Laboratories are responsible for an effective chemical laboratory service at the national level in support of forensic medicine and law enforcement, through regulatory control of chemical substances harmful to health.

The Department of Health is the co-coordinator of the Health sector of the Southern African Development Community and as such has the mandate to initiate the development of policy on food safety and related matters.

2.2 The Provincial Health Departments

According to the Constitution, provinces must supervise local government. The National Health Plan for South Africa states that the provinces must support, monitor and evaluate district health services.

According to the White Paper, the mission of a provincial health department is to promote and monitor the health of the people in the province, and to develop and support a caring and effective provincial health system, through the establishment of a province-wide district health system based on the principles of primary health care.

Provincial health authorities, into which the regional offices of the former Department of National Health and Population development were incorporated, are currently conducting food import control on behalf of the National Department.

2.3 District Health Authorities and other Local Government

The Constitution states that local government must ensure the provision of service to communities in a sustainable manner. They must promote a safe and healthy environment, render municipal health services and licenses and control the undertakings that sell food to the public.

According to the National Health Plan for South Africa, district health authorities are to promote primary health care/management and coordination of services, including environmental health, nutrition and control of communicable and non-communicable diseases. Services such as public utilities - including food handling premises - will be the responsibility of the local authorities.

The White Paper states that the health system will focus on the districts as the major focus of implementation, and emphasizes the primary health care approach. Health districts must provide for collaboration with other sectors of Government and NGOs in promoting health and ensuring the rendering of health services in the health district. They must also ensure primary environmental health

services, the promotion and maintenance of environmental hygiene, the enforcement of environmental health legislation - including food hygiene - and identify and control local health hazards.

2.4 Various laboratories

The Pretoria and Cape Town Forensic Chemistry Laboratories of the Department of Health conduct chemical analyses of food submitted by provincial and local authorities. The laboratories of the South African Institute for Medical Research and the Pathology Laboratory of KwaZulu-Natal Province are contracted by the Department of Health to conduct microbiological analyses of food submitted by provincial and local authorities. Analysts at these laboratories, as well as at a number of other laboratories in the country, have been authorized under the terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972.

The National Health Plan for South Africa refers to the integration of laboratory services into the primary health care system.

2.5 Standards South Africa (STANSA)

The Standards Act, 1993 (Act 29 of 1993) which is administered and enforced by Standards South Africa (STANSA) – *part of the South African Bureau of Standards - inter alia* has regulations which address canned meat (more than 10% meat) and canned and frozen marine products.

STANSA compiles its health-related mandatory specifications by agreement with the Department of Health and in terms of the Standards Act, 1993. The system of control inspections in terms of these compulsory standards are based on resident inspectors in and around factories during production periods. STANSA also operates a mark scheme by means of non-compulsory specifications.

STANSA protects the interests of South Africa in foreign markets by ensuring that locally manufactured products intended for export are of acceptable quality. It is the competent authority for the certification of various food items of marine origin and offers an export certification service to the fishing industry.

Section 10 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972, also authorizes certain officers of STANSA as inspectors under the Act.

2.6 The Commissioner of Customs and Excise

The role of the Commissioner of Customs and Excise in the control over the importation of food is set out in Sections 10 and 14 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972.

2.7 Department of Agriculture

a) Directorate Food Safety and Quality Assurance

i) Agricultural Product Standards Act, 1990

The Agricultural Product Standards Act, 1990 (Act 119 of 1990) controls and promotes agricultural product food safety and quality assurance standards (e.g. meat, dairy products, cereals, certain canned products, fruit and vegetables) for local as well as export purposes. The Act is administered by the Directorate: Food Safety and Quality Assurance (FSQA) and enforced by the Directorate: South African Agricultural Food Quarantine and Inspection Services (SAAFQIS) of the National Department of Agriculture. Various assignees such as the

Perishable Products Export Control Board – *for all agricultural products intended for export*, SAMIC - *for meat carcasses intended for sale on the local market* and PROKON – *for potatoes intended for sale on the local market*, are however also appointed and authorized to carry out the physical inspections under the terms of this Act.

The mandate is contained in the above-mentioned Act, namely to provide for control over the sale and export of certain agricultural products and other related products; and for matters related thereto. This includes the setting of quality standards such as composition and physical appearance. The Act regulates standards of quality and labelling of products for local and export purposes. It deals with a wide variety of products such as fresh meat, dairy products, cereals, canned products, fresh fruit and vegetables, fruit juices, -nectars, -drinks and fruit flavoured drinks as well as maize, wheat etc.

ii) Liquor Products Act, 1989

The Liquor Products Act, 1989 (Act 60 of 1989) addresses wine and spirits. It is also administered by the Directorate: Food Safety and Quality Assurance and enforced by the Directorate: SAAFQIS of the National Department of Agriculture.

The mandate contained in the Act is to provide for control over the sale and production for sale of certain liquor products, the composition and properties of such products and the use of certain particulars in connection with the sale of such products: for the establishment of schemes for control over the import and export of certain alcoholic products and for matters related thereto.

iii) The Meat Safety Act, 2000 (Act 40 of 2000) and the Standing Regulations under the Animal Slaughter, Meat and Animal Products Hygiene Act, 87 (Act 87 of 1967)

The Directorate: Food Safety and Quality Assurance administers this Act. The enforcement of the Act is the responsibility of provincial and local authorities throughout the country.

The purpose of the Act is to make provision for the maintenance of proper standards of hygiene in the slaughtering of animals for the purpose of obtaining suitable meat for human and animal consumption, and in the handling, keeping and conveyance of such meat and animal products at and from abattoirs.

iv) The Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947) is administered and enforced by the Directorate: Food Safety and Quality Assurance of the National Department of Agriculture. Animal feeds, stock remedies and agricultural remedies (pesticides etc) are registered under the terms of this Act.

b) Directorate Animal Health

i) The Animal Diseases Act, 1984 (Act 35 of 1984) is administered by the Directorate: Animal Health of the National Department of Agriculture and enforced by the provincial departments, except for import control which is a national responsibility. The Act controls animals as well as animal products, including meat, milk, eggs and their products from an animal disease point of view.

The mandate of this Directorate by virtue of the above-mentioned Act is to provide for control of animal diseases and parasites, for measures to promote animal health, and for matters related thereto, for example the control over imported animal products.

c) Directorate Plant Health

i) The Agricultural Pest Act, 1983 (Act No. 36 1983)

The mandate of this Directorate is contained in the above-mentioned Act, namely to regulate imports and factors that could affect the health of the South African *agroforest* industry. The inspections, especially of imported food of plant origin, are vital to guard against plant diseases, harmful pathogens etc.

Every South African has the right to import plants and plant products, provided that such imports do not place the *agroforest* industry and the environment at risk. The same principle applies for the export of plants and plant products regarding the environment and *agroforest* industry of the importing country. To achieve these objectives, the Government of South Africa is a signatory of the *International Plant Protection Convention* (IPPC).

The National Plant Protection Organization (NPPO) for South Africa is the Directorate: Plant Health.

d) Directorate Genetic Resources Management

i) The Plant Breeders' Rights Act, 1976 (Act 15 of 1976), the Plant Improvement Act, 1976 (Act 53 of 1976) and the Agricultural Pests Act, 1983 (Act 36 of 1983) and the Act on Genetically Modified Organisms, 1997 (Act 25 of 1997), are administered by the Directorate: Plant Health and Directorate: Genetic Resources Development. The regulations made in terms of these Acts include certain foodstuffs.

The mandate of the Directorate: Genetic Resources Development is *inter alia* contained in the following Acts of Parliament; The Plant Breeders Rights Act, 1976, (Act 15 of 1976), The Plant Improvement Act, 1976 (Act 53 of 1976) and the Act on Genetically Modified Organisms, 1997 (Act 25 of 1997). The regulations promulgated in terms of these Acts all include or have an influence in or on certain food as defined.

2.8 Department of Trade and Industry

The Trade Metrology Act, 1973 (Act 77 of 1973), and the Trade Marks Act, 1963 (Act 62 of 1963), both relate to food labelling.

2.9 By-laws of local authorities

Many local authorities have food hygiene by-laws which they enforce in addition to the national regulations.

3. NON-OFFICIAL CONTROL

3.1 EUREPGAP

The EUREPGAP system was established to specifically aim at controlling food safety related aspects at producer level. Eurep (Euro Retailer Produce Working Group) uses GAP (Good Agricultural Practice) as a production standard for the certification of good agricultural practice in the agricultural and horticultural industry. At this moment, the GAP standard is being applied in fresh fruits and vegetables. All kinds of agricultural products for human consumption can be certified with this standard. Special standards for flower, animal production, grain, coffee, and feed are under development. Eurepgap is based on the principles of risk prevention, risk analysis (among other through HACCP), sustainable agriculture by means of Integrated Pest Management (IPM) and Integrated Crop Management (ICM), using existing technologies for the continuous improvement of farming systems.

EUREPGAPAFRICA, a regional leg of EUREPGAP, was formed to specifically address issues pertaining to GAP aspects in the African region. As we all know, Africa has its own unique culture just like any other part of the world. Thus, there would be differences in the application and interpretation of protocols developed in Europe for this part of the world.

3.2 ISO

ISO standards contribute to making the development, manufacturing and supply of products and services more efficient, safer and cleaner. They make trade between countries easier and fairer. They provide governments with a technical base for health, safety and environmental legislation. They aid in transferring technology to developing countries. ISO standards also serve to safeguard consumers, and users in general, of products and services - as well as to make their lives simpler.

ISO standards are voluntary. As a non-governmental organization, ISO has no legal authority to enforce their implementation. A certain percentage of ISO standards - mainly those concerned with health, safety or the environment - has been adopted in some countries as part of their regulatory framework, or is referred to in legislation for which it serves as the technical basis. Such adoptions are sovereign decisions by the regulatory authorities or governments of the countries concerned; ISO itself does not regulate or legislate. However, although ISO standards are voluntary, they may become a market requirement, as has happened in the case of ISO 9000 quality management systems.

Developing countries in particular, with their scarce resources, stand to gain from this wealth of knowledge. For them, ISO standards are an important means both of acquiring technological know-how that is backed by international consensus as the state of the art, and of raising their capability to export and compete on global markets.

The ISO standards are administered by STANSA in South Africa. PPECB achieves ISO 9001:2000, as well as, 62 and 65 certification from STANSA which is a member body of ISO.

3.3 Organic certification e.g. Ecocert

These organizations administer systems which are market driven. These systems contribute to international standards and thus promote the food safety chain nationally and internationally.

3.4 Internal control e.g. Production Operation systems

These systems are based on international standards to contribute to food safety globally.

3.5 British Retail Consortium (BRC)

The objective of the BRC Global Standard - Food is to specify Food Safety and Quality criteria required to be in place within a manufacturer's organization to supply product to UK retailers. The format and content of the Standard is designed to allow an assessment of the supplier's premises and operational systems and procedures by a competent third party, thus standardizing food safety criteria and monitoring procedures.

The Standard requires:

- the adoption and implementation of HACCP;
- a documented and effective quality management system;
- control of factory environment standards, product, process and personnel.

An assignee of the Department of Agriculture, namely PPECB has been authorized by the British Retail Consortium (BRC) in London to certify organizations that package fresh produce according to the BRC Global Standard - Food.

Organizations complying with this standard will receive an internationally recognized certificate displaying the BRC quality mark. This certificate of compliance will give assurance to potential customers that the product they are buying is safe for their consumers.

European retailers not only require a quality product, but also a safe product. As a result, producers and pack houses that supply European markets are now being forced to implement various food safety related systems. Pressure is now also being exerted on pack houses to implement food safety systems.

The BRC Global Standard – Food is recognized by European retailers as the standard against which pack houses must be audited to verify that food safety control systems have been effectively implemented.

The advantage for South African producers and exporters of fresh fruit and vegetables being certified to the BRC Global Standard - Food is that their produce will automatically gain entry to EU markets.

3.6 Nature's Choice

This is a code of practice covering biodiversity, conservation and environmental management developed by Tesco and ADAS (Agricultural Development Advisory Service) for farms that supply Tesco with fresh fruit, vegetables, salad and horticultural products. Suppliers in South Africa must be accredited to this code. This code also includes production and produce handling practices which are sustainable and protect, and where possible enhance the well being and biodiversity of the environment. Nature's choice demonstrates Tesco's commitment to protecting and wherever possible enhancing the environment and to raising standards in the industry.

4. CONSEQUENCES OF MULTIPLE LEGISLATION

Multiple legislation governing food control in South Africa results in fragmentation, duplicate decision-making and government involvement. Some examples are the following:

4.1 The Foodstuffs, Cosmetics and Disinfectants Act, 1972 and the Agricultural Product Standards Act, 1990, both set standards for milk and dairy products, including the labelling thereof. The former are health related and are enforced by local authorities (locally) and provincial health authorities (import) while the latter are quality related and are enforced by the Directorate: Food Safety and Quality Assurance of the National Department of Agriculture. The Animal Diseases Act, 1984 however, also controls milk and dairy products (including imports) from an animal health point of view and regulates the Bovine TB and Brucellosis Eradication Schemes.

Milking shed regulations which have been elaborated under the terms of the Health Act, 1977, are enforced by provincial and local authorities but not always by the local authorities into whose areas the milk is distributed. Provincial animal health officers who visit farms regularly and who are involved in mastitis control, which includes milking shed hygiene, are not authorized to inspect milking sheds. Foreign importing countries however often require the veterinary authorities to certify milk and dairy product exports.

Local authorities have their own by-laws governing milk premises in their areas of jurisdiction.

At least four sets of legislation and six different authorities at all levels are therefore involved in the control of milk and dairy products. Import control is conducted by three different authorities. Each authority may only inspect and sample specific aspects in terms of its own legislation. Samples are submitted for analysis to a number of different laboratories.

4.2 The importation of foodstuffs is controlled by a variety of authorities. At the larger ports of entry officers of the Directorates of Veterinary Public Health, Animal Health, STANSA, as well as provincial health authorities are engaged in full-time import control and often inspect and sample the same product in terms of different legislation and then submit samples to a number of different laboratories. The Directorate: Food Safety and Quality Assurance does not inspect imported foodstuffs at the point of entry. This is only done when products are encountered in the trade.

In contrast, at many of the inland ports of entry no control is exercised by any of these components. Because of the fragmented responsibilities none of these authorities feels that its specific area of control justifies the attention of a full-time import control officer. Collectively however, one officer to carry out the responsibilities of all the authorities could be justified at many points of entry that are currently unmanned for food control purposes.

4.3 Many more examples where more than one official control mechanism is active for a food commodity can be named. On the positive side, the fragmented structural and legislative control however precludes an efficient multidisciplinary approach which is necessary for the proper control, by specialists in their fields, of many products and which would provide assurances for the consumer from production until the product is purchased and consumed. On the negative side, the fragmentation has been confusing to importers, exporters and producers and made it impossible to implement a national food monitoring programme or to compile a national data base in this regard.

5. INTERNATIONAL IMPLICATIONS

The necessity for an efficient national food control system arises not only from public health considerations but also from trade and economic implications. In this regard, South Africa's membership of the World Trade Organization (WTO), the Codex Alimentarius Commission (CAC) and the World Organization for Animal Health (OIE) are of prime importance.

The WTO is the legal and institutional foundation of the multilateral trading system. It provides the principal contractual obligations determining how governments frame and implement domestic trade legislation and regulations. It is the platform on which trade relations among countries evolve through collective debate, negotiation and adjudication.

The Marrakesh Agreement concluded in 1994 resulted in almost 30 multilateral trade agreements to which all members of the WTO are committed. Two of these agreements, namely the Agreement on Sanitary and Phytosanitary Standards (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT Agreement), have a direct impact on food safety issues.

In order to successfully conduct trade in food an importing country must be satisfied that imports meet its legitimate requirements, so that public health is appropriately protected, quality standards are maintained, and fraudulent practices are prevented.

5.1 The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) concerns the application of food safety and animal and plant health regulations. The main purpose is to ensure that countries do not undermine international trade by imposing non-tariff barriers. The basic provisions of the SPS Agreement are that any measures that may affect international trade must not be stricter than necessary for the protection of human, animal or plant health, must be based on scientific principles, and must not be maintained without sufficient scientific evidence.

The SPS Agreement defines “international standards, guidelines and recommendations”, with reference to food safety as those established by the Codex Alimentarius Commission and with reference to zoonosis as those developed under the auspices of OIE.

Codex and OIE standards and guidelines therefore assumed a completely new dimension as the reference of national trade requirements. For this reason the World Health Organization in Circular C.L.8. 1994 dated 26 April 1994 stated: “Consequently it will be prudent for the health sector to participate even more actively in the work of the Codex Alimentarius Commission and its subsidiary bodies, both at national and international levels.”

Article 3 (Harmonization) of the SPS Agreement includes the following paragraphs:

“1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, ...”

“4. Members shall play a full part,, in the relevant international organizations and their subsidiary bodies,..... to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.”

Article 5 deals with the Assessment of Risk and Determination of the Appropriate Level of Sanitary and Sanitary Protection. Paragraph 8 of this Article states:

“When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.”

Article 4 dealing with equivalence, is also very important:

“1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member’s appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for testing and other relevant procedures.

2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.”

5.2 The Agreement on Technical Barriers to Trade modifies the GATT Agreement which has existed since 1980. It seeks to ensure that technical regulations and standards, as well as testing and certification procedures, do not create unnecessary obstacles to trade. It applies to all commodities and covers all technical requirements and standards that are not covered by the SPS Agreement. Therefore the SPS and TBT Agreements can be seen as complementing each other. The TBT Agreement’s application to food would cover issues such as labelling.

5.3 The implications of the above Agreements can be summarized as follows:

- South Africa’s food safety regulations must be in line with the minimum Codex standards.

Should they be stricter than Codex standards, without sound scientific justification, the country can become involved in a dispute. Weak control and less strict regulations or the absence of regulations governing specific matters can lead to the dumping of undesirable food as well as problems in terms of the application of equivalence. Failure to meet the demands can lead to losses of potential exports worth millions.

- All components involved in food control must therefore possess the human and other resources that will enable them to function in an optimal manner, determine policy and write and administer regulations that comply with global norms and standards.
- South Africa must participate in the activities of the CAC and its various general and commodity committees. Not only does South Africa have such an obligation in terms of Article 3.3 of the SPS Agreement; it also needs to make its inputs into those measures which will affect South Africa directly. Sessions of the CAC and its committees are in effect extensions of South Africa's regulatory activities. They have the added benefit of global expertise concentrating on specific issues, thereby saving months or even years of work in isolation. Major powers tend to favour their economic interests at such meetings making it imperative for developing countries to be present to protect and further their own interests.
- Article 4 (Equivalence) makes it imperative that South Africa's sanitary (food safety control) measures are at least at the same level as those of its major trading partners. According to the SPS Agreement such sanitary measures include:

“All relevant laws, decrees, regulations, requirements and procedures including inter alia, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments, provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labeling requirements directly related to food safety.”

Article 4 applies to the food safety, animal and plant health activities of the Departments of Health and of Agriculture. The country as a whole must therefore ensure that its food control system, inclusive of animal and plant health control, is at least equal to that of its major trading partners, such as the USA and the European Union.

6. SUMMARY

Food safety legislation should give a sound basis to the national system for the delivery of food control and food inspection services that should satisfy at least the following minimum criteria:

- 6.1 Must be able to satisfy and adhere to national and international norms and standards.
- 6.2 Effective utilization of resources with clear policy on private vs. public goods. Those activities that are obligatory government functions (government financed) vs. those functions that can be outsourced/done by the private sector, must be clearly defined. In general the setting and auditing of norms and standards should be a government function while certain inspection and certification functions could be outsourced and/or delivered on a user-pay principle.
- 6.3 The system must be able to satisfy the food safety objectives of a country and must guarantee the required level of protection for human, animal and plant health.
- 6.4 The system must be able to render production support i.e. facilitate and promote trade. It must also be able to supply according to the needs of the country and not inhibit or discourage production and trade.
- 6.5 The decision-making process and policy formulation must abide with international criteria i.e. must be scientifically justified.