



**Report on the 3rd USDA/FAEA-supported GOK task force retreat on food
safety policy review and legislation drafting
Enashipai Resort and Spa, Naivasha
28 September 2021-3 October 2021**



Name/Title: Charity Mutegi, FAEA Representative, Kenya **Start date:** 28/09/2021
Destination (City/Country): Naivasha, Kenya **End date:** 03/10/2021

Preamble: The legislative process on food safety has been on-going in earnest, since it was re-ignited in 2019, attaining steady progress since 2020, when FEAE gave support. In compliance with the requirements of policy and legislative process in Kenya, stakeholder consultations have been undertaken, including rigorous consultations in all the forty seven counties, with the exception of Lamu County. Several comments came through from the consultations, cutting across various sectors, expertise, and geographies.

The main objective of the third task force meeting was therefore to take stock of all the comments that came from stakeholders including those at the counties, and consider them for adoption into the draft food safety policy and bill.

Purpose of the meeting

1. To review all comments that came from stakeholder consultations and consider them for adoption into the draft food safety policy and bill.
2. To review and agree on the roadmap for the remaining steps to complete the foods safety legislative process.

Key observations during the retreat

The following are key observations made during the retreat:

1. There were several recommendations from consultations that focused on how to improve the bill. While they were diverse, they were not in conflict with the spirit of the bill.
2. There was tremendous improvement in the active participation of the inter-ministerial team. In particular, the health team participated actively and all decisions were arrived at by consensus.
3. The taskforce agreed to come up with an office of the food safety controller, that consolidates the oversight of food safety aspects in Kenya but leaves competent agencies with a defined mandate on food safety. Hence several agencies will still have a food safety mandate under the current proposal. Subsequently, the proposal to consolidate all food safety functions under one agency was discarded. The agencies with a food safety mandate are listed in the first schedule of the bill.
4. There was a proposal to introduce consequential amendments to deal with existing acts that may require to be reviewed in order to avoid duplicity and pave way for clear mandates.
5. The title of the bill was amended to read “Food Safety Control Coordination Bill 2021”.
6. The issues on feed regulation were discussed at length. While majority of the stakeholders consulted at County and national level proposed its inclusion in the bill, the taskforce was split in the debate, with some members feeling that it should be included while others felt it should be left out. The matter was escalated to PS level to make a determination.
7. While it is now clear that the food safety law will be premised on scientific evidence and a risk based approach, there seemed to be lack of clarity as to why the law also proposed

inclusion of the precautionary principle. The proponent argued that there could be cases where scientific evidence may not be sufficient to make decisions, in which case the precautionary principle would kick in.

8. The issue of who would sign off the Policy and the bill and where the two instruments would reside, including where the office of the food safety controller would be, was not agreed upon by the taskforce, and the matters were recommended for escalation, to be determined at PS/CS level.
9. There was a smaller group of taskforce members who arrived earlier, on Tuesday morning, and they were joined by the rest of the taskforce members on Friday. Members had to work full day on Saturday in order to complete the two documents. Logistical arrangements went on smoothly. In spite of the tight timelines that we had to work under, we received wired funds in good time to be able to make all payments while still in Naivasha. The following table shows a summary expenditure report. Detailed reports have been shared with FAEA.

No.	Category	Amount in kes	Amount in USD
1	Per diem and fare refund to members	1006012	9272
2	Printing and stationery	41740	384.7004608
3	Fuel and mileage	54163.4	499.2018433
4	Total Amount Spent	1101915.4	10155.9023
5	Amount issued by FAEA	1300364.91	11984.93005
	Balance (Unspent)	198449.51	1829.027742

*Hotel costs paid directly by FAEA through USGC

Next steps:

The following is a summary of the key steps that remain to be addressed, before the bill is presented to parliament:

Sn	Activity	Proposed Dates	Remarks
1.	Cleaning the Draft Food Safety Policy and Food Safety Coordination Bill in preparation for presentation to the PSs	Week 11 th to 15 th October 2021	This has since taken place
2.	Presentation of Draft Food Safety Policy and Food Safety Coordination Bill to Agriculture SWAG	14 th October 2021	Venue was Naivasha-this has taken place
3.	Presentation of Draft Food Safety Policy and Food Safety Coordination Bill to Policy Makers and top management of involved ministries	2 nd week of November 2021	Exact day to be determined, proposed a joint breakfast meeting with as many as concerned CSs and other in

			management invited. Venue is Nairobi
4.	Publication in widely circulated newspapers of Draft Food Safety Policy and Food Safety Coordination Bill	2 nd week of November 2021 (but after briefing of top management)	Targeting general public comments before national validation
5.	National Validation workshop	3 rd week of November 2021	One day activity in Nairobi
6.	Consideration of National validation comments and all other submitted comments	1 st week of December 2021	3-day retreat outside Nairobi
7.	Development of Cabinet memorandum and forwarding of Drafts to Cabinet Secretary for onward transmission to Cabinet	2 nd week of December 2021	

Recommendations

1. I recommend that FAEA considers support for the remaining steps, before policy and bill are presented in parliament, namely:
 - a. Publishing the draft bill and policy in the two local dailies with a national reach (this is a requirement)
 - b. National validation workshop
 - c. A final retreat to incorporate comments from the national validation and other comments that may have come between the completion of the 3rd taskforce meeting and the national validation day.
2. That the remaining activities are fast-tracked considering that next year is a general election year and many in government leadership may not have time to dedicate into the process.
3. That the national validation be held as a hybrid event to allow for the participation of those who may not be able to attend physically.
4. That the process of notification to the World Trade Organization (WTO), commences so that it does not become a point of delay.

Itinerary

See attached program (Annex one).

Daily activity

Tuesday, 28 September, 2021

Wilfred Wachira, arrived early morning at Enashipai Resort to set up and ensure that all plans were in place, including a secretariat room for handling logistics, conference room and reservations. A technical team of about eighteen members also arrived on the same day. The technical team had to initially work on the approach to incorporate all comments coming from the field. One group that had not completed assessing all comments from the field was given time to do so. Further, the team worked on a matrix that aimed to organize all comments that

came through from various stakeholders into one reference document, in order to ease their consideration into the draft policy and bill documents. All similar comments from different stakeholders were clustered together. The members were also joined by the four rapporteurs who were involved in the County consultation exercises. The matrix is referenced in Annex two and three.

Wednesday, 29 September 2021

The taskforce members continued to input comments into the matrix. On Wednesday, members largely focused on developing the matrix for the policy. This took the whole day due to the numerous comments from stakeholders.

Thursday, 30 September 2021

This session was chaired by Lucy Njenga. Members continued incorporation of comments in the policy matrix. A section of the members was separated in order to develop the joint matrix for the bill, in order to save on time.

Friday, 1 September 2021

There was a proposal at the end of the day to change the approach and have members working in groups, in order to speed up the incorporation process. Subsequently, members split themselves into three groups that handled the following areas:

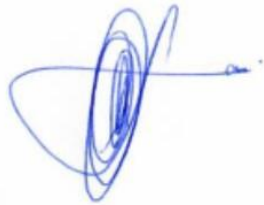
Group one: comments from stakeholders consulted virtually and invited to send in their comments

Group two: were to handle comments from the county processes

Group three: were to handle comments on the bill.

Saturday, 2 September 2021

The task force spent the better part of the day incorporating comments into the bill and policy, from the common matrix. Later in the afternoon, both the policy and bill were presented in plenary for concurrence. A way forward was also deliberated through guidance of the co-chairs. The meeting went past 8pm. Majority of the members departed on Sunday morning.



Signature:

Date: 11 Nov 2021

Contacts and photo gallery

S/NO	NAME	Institution	Phone Number	Email
1	Ole Sariayo	MOALF&C	0722 254 951	olesaraiyodvm@gmail.com
2	Mrs Lucy Njenga	SDC&AR-Policy	0723 763 936	kalucynn@yahoo.com
3	Mr Peter Owoko	SDC&AR-Policy	0710 904 320	spowoko@yahoo.com
4	Dr Edward Kiema	SDL-Policy	0722 310 570	edwardkiema@yahoo.com
5	Dr. Domitilla Kyule	KMFRI	0713 777 543	Domsjos2016@gmail.com
6	Mr Peter Mutua	KDB	0715 523 744	mutua@kdb.co.ke
7	Mr Vincent Ogwang'	SDF	0725 351 341	nodog2000@yahoo.com
8	Ms Beatrice Nyamwamu	AFA	0722 844 529	beatricenyamwamu@yahoo.com
9	Dr. Simon Kibias	MOH	0728 976 489	drkibiassk@gmail.com
10	Grace Kimaru	MOALF&C	0720 830 393	Gracekimaru71@gmail.com
11	Jones Mongare	MOALF&C	0712284778	jonesmongare@gmail.com
12	Lucas Mwago	SDT	0726 531 489	lukamwago@gmail.com
13	Josephine Simiyu	AFA-HCD	0722 619 530	jnatecho@gmail.com
14	Peter Mutua	KEBS	0722 836 425	mutuap@kebs.org
15	Theophilus Matundura	MOALF&C	0703 480 154	theomatundura@gmail.com
16	Antony Wechulu	PCPB	0725 346269	akhaenje@gmail.com
17	Lucy Namu	KEPHIS	0726 649 826	lnamu@kephis.org
18	Terry Gathagu	MOALF&C	0721 971 310	gathaguterry@gmail.com
19	Leah Abura	MOH	0722958028	leahabura@gmail.com
20	Gerald Macharia	MOH	0722 958 028	leahabura@gmail.com
21	Wilfred Wachira	Accountant	0791 834 172	w.wachira@rootooba.com
22	Lilian Ousa	MOH-HQ	0722 268 972	ousalilian@yahoo.com



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23	Vincent Onkoba	AFA	0725 114 030	onkobavincent@gmail.com
24	Leonard Kimtai	MOH PH	0724 951 566	kimleny@gmail.com
25	Charles Njeru	Driver	0720 229 213	Charlesnjeru123@gmail.com
26	Lawrence Gichuki	Driver	0722 931 535	gichukilawrence@gmail.com
27	Ben K Rutto	AFA/FCD	0722 115 806	Ruttoben02@gmail.com
28	Benard Kuria	MOH	0722 974 430	benardkura@gmail.com
29	Allan Barasa	MOH FSU	0722 460750	wasilwa@gmail.com
30	Manaseh Bocha	MOH	0721 242 301	manasehbocha@yahoo.com
31	Boniface Kimuyu	MOH	0721 680 768	bonifacemulinge@yahoo.com
32	John Kabue Maina	KEBS	0722 823 586	kabuej@kebs.org
33	Dr. Charles Kandie	MOH	0722 709 156	kandiecharles@yahoo.com
34	Benson Kamau	MOALF&C	0714 456 005	bensonkamau@gmail.com
35	Dr Charity Mutegi	FAEA	0722 670 910	c.mutegi@rootooba.com
36	Brenda Obura	MOH-DFS	0711 359 009	sikolobreda@gmail.com
37	Paul Njiru	Driver	0713 443 386	Pnnjoka70@gmail.com
38	Patrick Waweru	MOALF&C	0727 707 872	
39	Teresia Karanja	Moalf&c	0722 261 909	trzkaranja1@gmail.com

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Gallery of group sessions by members of the taskforce.

