



Nationaal Instituut voor Voedselveiligheid Suriname
National Institute for Food Safety Suriname

POLICY DIRECTIONS FOR THE DEVELOPMENT OF A MODERNIZED FOOD LAW FOR THE REPUBLIC OF SURINAME

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I. Background

On December 18th, 2020, an Act of the National Assembly of Suriname was unanimously adopted promulgating the creation of the National Food Safety Institute of Suriname (NIVS) as the primary food safety regulator of Suriname.

The Act was signed into law on 28 January 2021 by the President of Republic of Suriname and published on 9th February 2021 in the S.B.2021 n° 9.

NIVS was created with the intent to assemble key food safety authorities and to address several limitations observed over time with respect to performance of the food control system, in particular with the operation of and coordination between Surinamese food competent authorities.

As the primary food safety regulator of Suriname, NIVS is embarking on the modernization of the food safety legislative and regulatory framework, to support the development of an enabling environment for the food and agri-food sector and to anchor food safety regulatory decisions in science, with the objective to ensure that food safety interventions are based on prevention and with the vision to promote food safety culture and compliance with food safety regulatory requirements.

This document offers an overview of the Policy that underpins the overhaul of the food legislative and regulatory framework in Suriname and will support discussions on the drafting of the modernized food legislation for Suriname.

II. Approach Followed to Develop the Policy Considerations for the Modernized Food Legislation

Under the high patronage of the Minister of Agriculture and with the leadership of NIVS Board of Trustees, NIVS has created a task team of its board of trustees to be entrusted with the development of the policy rationale and directions underpinning the modernization of the country's food safety legislation.

This task team is composed of:

- ❖ Mrs. Juliette Colli, Director and Chief Executive Officer of NIVS
- ❖ Ms. Parveen Amritpersad, Chair of the BoT
- ❖ Ms Jenna Wijngaarde, member of the BoT

In driving this initiative, NIVS will be supported through the Agricultural Competitiveness Program, a development initiative aimed to enhance Suriname's agriculture sector, through funding provided by the loan contracted by the Government of Suriname from the Inter-American Development Bank (IDB) and a complementary grant funding by the European Union and implemented by the Interamerican Institute for Cooperation on Agriculture (IICA).

The task team has developed the current policy paper, as the driver for the modernization of the food legislation and to use it as a vehicle of consultation and engagement with the stakeholder community.

The Policy options considered the review of recent enhancements of food safety and food control legislations that occurred in the United States (Food Safety Modernization Act, 2011), Canada (Safe Food for Canadians Act, 2012), Guyana (Food Safety Act 2019) and other Caribbean nations, which overhauled their food safety and food control legislation during the last decade i.e., 2010-2020.

Policy directions were also consistent with the initial directions stated upon the discussion and adoption of the NIVS Act:

- ❖ Striving to empower a single food regulator, entrusted with the various food regulatory functions (standard setting, inspection, compliance verification, enforcement) and underpinning activities, such as risk assessment or education and communication.
- ❖ Striving to follow international best practices and more specifically guidance of the Codex Alimentarius Commission.

The new / proposed *Food Act* will aim to align with the mandate of the NIVS as the primary and sole food authority in Suriname, whose mandate mirrors the mandate of the Codex Alimentarius Commission.

III. Drivers of Change

The development of the new Surinamese food legislation is aimed to address several challenges witnessed in the way food safety oversight has been exercised in Suriname for a number of years and in particular:

- ❖ The outdated nature of the current food safety legislation, dating back to 1911,
- ❖ The need to anchor food safety decision-making in science and food risk analysis, with the primary objective to protect consumers' health, to enable a fair environment for the trade of food and agri-food products, with the ability to address emerging food safety and food quality issues, including the increasing level of concern on the development and propagation of food fraud and other food adulteration practices,
- ❖ The scattered and limited oversight on food production establishments in Suriname,
- ❖ The need to adopt a modernized food safety oversight, emphasizing the leading responsibility of food producers in developing and applying food safety measures and requiring the adoption of preventive measures to manage food safety risks,
- ❖ The need to support NIVS in adopting food safety regulatory measures that are commensurate with the level of risk, and to adopt a culture of compliance promotion and support of the food and agri-food production sector, promoting food safety best practices.
- ❖ The need for Suriname's food oversight to be consistent and in line with international food safety measures, as promulgated by the Codex Alimentarius Commission,
- ❖ The need for Suriname's food legislative regime to offer an enabling environment for the development of the food and agri-food production sector, with the ability to promote innovation in food products and processes, to support the development of Suriname's food exports and to position Suriname as a leading agri-food producer in the Caribbean region and globally.
- ❖ The need to ensure that the food competent authority's interventions i.e., NIVS interventions follow the values of:
 - Transparency,
 - Inclusiveness of all food stakeholders,
 - Predictability of interventions
 - Evidence-based decisions
 - Emphasis on compliance promotion upon the adoption of food regulatory measures.

IV. Document Objective

This document will support the discussion of the policy underpinning the development of the new Food Act for Suriname.

The policy considerations discussed in this document will be enriched with feed-back and input provided by food stakeholders and partners in Suriname and internationally.

The new Food Act would replace any other law or statute managing food from the standpoint of safety and quality, including conditions of production.

V. Proposed Key Provisions of the Food Act of Suriname

Section One: Preamble and Scope

It is recommended that the Act be preceded by a preamble that introduces its name and its scope as:

The Food Act of the Republic of Suriname is an Act in relation with the management of food and agriculture products destined to be consumed as food commodities, including ingredients, processes and operations supporting their production i.e. all agricultural inputs and feed.

The Act will manage aspects related to standard setting, regulations, inspection of these commodities to ascertain safety and quality attributes, including:

- ❖ their safety requirements, and the safety requirements of their conditions of production.
- ❖ their labelling and advertising.
- ❖ their import and export.
- ❖ the establishment of standards for them.
- ❖ the registration or licensing of persons who perform certain activities related to them.
- ❖ the establishment of requirements governing establishments where food production and handling activities are performed.
- ❖ the registration or licensing of establishments where those activities are performed.
- ❖ their recall.
- ❖ the management of situations of non-compliance.
- ❖ the management of food and food establishments in situations of foodborne illness incidents and outbreaks.

Section Two: Definitions

It is recommended that a section be devoted to a set of definitions to clarify terminology that will be utilized in the Act.

Some of these terminologies would be referring to definitions adopted in the NIVS Law and relate to:

- ❖ NIVS and its administration: Board of Trustees.
- ❖ Minister with the identification of the Minister or Ministers who will support the administration of the Act.
- ❖ Director or CEO of NIVS.
- ❖ Other Key definitions including the following terms:
 - “food” which should be consistent with the definition adopted in the NIVS Law as a legal definition:
 - possibly inspired from “any article produced, manufactured, sold or represented for use as food or drink for human beings, chewing gum, alcoholic beverages (above 0.5% Alcohol) and any ingredient that may be mixed with a food for any purpose”.
 - Advertisement and food representation.
 - Institute / Agency / Authority to designate NIVS.
 - Analyst.
 - Food Transport Vehicle or Food Conveyance.
 - Document (to include Digital documents).

- Inspector.
- Food package or Packaging.
- Handle or Prepare food.
- Sell food.
- Donate to large gatherings.
- Definition of Tribunal if needed to specify,
- Violation / non-conformity.
- Food Risk.
- Food Hazard.
- Prescribed (by regulation / rule / measure).
- Agriculture input (Pesticides / veterinary Drugs/ fertilizers/irrigation water).
- Feed.
- Processing Water.
- Authorized Officer.
- Codex Alimentarius.
- Food Establishment / Food Business Operator.
- Contaminant / Adulterant.
- Novel food
- Novel Process
- Food Fraud.
- HACCP.
- Importer, exporter.
- Street food.
- Seizure, forfeiture.

Section Three: Principles of Food Control under the Act

This section will offer the policy intent and the leading considerations in reforming Suriname's food legislation, which would constitute the lens by which all provisions would be interpreted including the way regulatory measures would be developed, through the authorities provided by the legislation.

This section will therefore offer the opportunity to emphasize key principles and anchor them in legislation, in particular but not limited to the fact that:

- Food control decisions, including food regulatory provisions will be developed and promulgated in accordance with set principles and values:
 - The reliance on a base of evidence for all decisions and in particular the reliance on the food risk analysis principles when developing food safety and nutrition regulatory decisions, both for general food rules, such as standards and for reactive decisions, such as those taken during food safety incident management. This approach is to be benchmarked

against the directions and guidance from the Codex Alimentarius Commission, the international food standard setter.

- The requirements of consultation and engagement with stakeholders domestically and internationally, to fulfil Suriname's domestic and international / WTO obligations, prior to and during the development of food control decisions
 - The requirements of transparency for all food regulatory decisions, by disclosing the scientific assessments, studies and other evidence that underpin a food regulatory decisions to be developed and adopted by NIVS.
- Food Business operators (FBOs) are the primary responsible partners to ensure food safety and quality and must demonstrate their efforts to protect consumers, through preventive measures adopted to control food safety hazards and risks and to ensure compliance with food safety regulatory provisions i.e. the burden of proof is on the FBOs to demonstrate compliance with the rules, rather than on NIVS to demonstrate the lack thereof.
 - NIVS food rules will be developed and implemented with the intent to promote compliance and adoption of these requirements by the FBOs, prior to proceeding with enforcement. NIVS would need to demonstrate its efforts of compliance promotion, prior to enforcement. It remains however NIVS prerogative to take swift actions to protect Surinamese consumers and the Surinamese food supply as well as the reputation of the Surinamese food production sector from imminent and major threats from domestic or import sources.
 - NIVS rules will be focused to promote prevention of the introduction of food safety hazards in the food supply chain, rather than on control of end products, through end product testing, although the latter measure may be used as warranted as part of NIVS food control activities.

Section Four: Prohibitions related to food contamination and adulteration

The prohibitions should cover various aspects related to food contamination (non-intentional), adulteration (intentional – fraud), as well unsanitary production conditions.

Prohibitions would include:

- ❖ The sale and the import of a food that is contaminated with a poisonous substance, such that it becomes harmful to consumers' health.
- ❖ The sale and/or the import of a food deemed unfit for consumption.
- ❖ The sale and/or the import of a food that is adulterated.
- ❖ The sale and/or the import of a food that is handled under unsanitary conditions.
- ❖ The sale and/or the import of a food treated with:
 - Additives.
 - Pesticides.
 - Veterinary drugs.

Unless deemed acceptable through a decision prescribing their conditions of acceptability

- ❖ The sale and/or import of food fortified with nutrients, unless deemed acceptable through a decision prescribing its acceptability.
- ❖ The sale and/or import of food deemed novel, unless deemed acceptable through a decision prescribing its acceptability.

- ❖ The sale and/or import of food that is deemed to contravene rules issued by NIVS.
- ❖ The sale and/or import of feed that is deemed unacceptable either because it contravenes NIVS set rules and regulations and/or because it is destined to food producing animals and would, under applied feeding conditions, lead to unsafe or contaminated food or food that is deemed to be injurious to human health

Additional prohibitions should be set to deter from other deliberate actions related to food and food production, including:

- ❖ Prohibition to temper with food, its label or package with the intent to render the food injurious to health or cause fear about it becoming injurious to health.
- ❖ Prohibition for a person or a group to threaten to render a food commodity injurious to health (Food terrorism / Food defense).

This section should also offer NIVS to prohibit hoaxes (disseminate false information) related to food:

- ❖ Prohibition for a person or a group to communicate false or misleading information about food knowingly, with intent to cause a reasonable fear to others, including information related to a food being contaminated or tampered.

Infractions related to the provisions of food contamination, adulteration and dissemination of false information about food with the objective to create panic would be handled under the criminal code/statute (i.e. it is a crime to adulterate food)

Section Five: Prohibitions related to misrepresentation of food

This section should create clear prohibitions that deter from mis representing food through:

- ❖ Labeling, advertising.
- ❖ Packaging.
- ❖ Treating, processing.

In a manner that may be considered false or misleading or that is likely to create an erroneous impression regarding its character, value quantity, composition, merit or safety or which contravenes regulations to be developed by NIVS in this regard

Infractions related to these provisions would not be treated under the criminal code, rather under trade statues.

Section Six: Approving food production and handling establishments

This section would serve as an enabler to offer NIVS authority to set conditions for acceptable food production and handling establishments based on rules developed by NIVS and to approve FBOs to operate in Suriname as such.

It is expected that this authority be exercised by NIVS in an incremental fashion, as NIVS deems appropriate, i.e for a given sector of production or area of food handling (a particular step in food production or the supply chain).

This section would then specifically provide NIVS and its CEO with the authority to issue a license of operation as a food establishment in Suriname for the purposes of:

- ❖ Food and agrifood production from the farm to the retail including farming operations destined to produce food or feed
- ❖ Import and / or export of food into and from Suriname

Section Seven: Inspection / Powers of Inspectors

This section would provide the Minister or his representative (e.g. CEO NIVS) to designate a person, meeting certain qualifications as an inspector, with the mandate to enforce this Act and the NIVS Act.

This section would provide the Minister and / or his representative with the powers to develop the requirements and qualifications that allow them to be designated as an Inspector.

Defining the powers of the Inspector:

This section would clarify the conditions of action of an Inspector, including the powers received / to be received such as:

- ❖ At any reasonable time to enter any place where the inspector believes on reasonable grounds any article, to which this Act or the regulations apply, is manufactured, prepared, preserved, packaged or stored,
- ❖ At any reasonable time to examine any food and take samples thereof, and examine anything that the inspector believes on reasonable grounds is used or capable of being used for manufacture, preparation, preservation, packaging or storing (any aspect of food handling)
- ❖ At any reasonable time to examine and inspect vehicles of transportation or conveyance of food
- ❖ At any reasonable time to inspect and examine any food production establishment, including establishments specialized in the production of inputs

Inspectors' powers include:

- ❖ examine or test, or take samples of a food or its inputs.
- ❖ open a package.
- ❖ examine a document in relation with a food and make copies.
- ❖ order the owner or person having possession, care or control of an item to which this Act applies
 - to move it or, for any time that may be necessary, not to move it or to restrict its movement.
- ❖ use or cause to be used a computer or other device that is in the establishment to examine data that is contained in or available to a computer system or reproduce it or cause it to be reproduced in the form of a printout or other intelligible output and remove the output for examination or copying.
- ❖ use or cause to be used copying equipment that is in the establishment and remove the copies for examination.
- ❖ take photographs or make recordings or sketches as may be needed for the purposes of a food investigation or inspection.
- ❖ order any person in the place to establish their identity to the inspector's satisfaction.
- ❖ order any person who, in the place, conducts an activity regulated under this Act to stop or start the activity.
- ❖ prohibit or limit access to all or part of the establishment.
- ❖ remove any item from the establishment for the purpose of examination, conducting tests or taking samples.
- ❖ Order to access or receive any document in relation with the application of this Act.

It is possible for this section to consider situations where food is prepared in private properties and is offered nonetheless for sale. In the latter case, entering private property would be conditioned by a Warrant from a Judge.

Section Eight: Seizure and Forfeiture

This section would provide NIVS CEO and / or a designate to order the seizure of food and/or items used in the preparation of food, that is deemed contravening this Act and/or its regulations.

This power may be delegated to the inspectors, who may seize and detain anything that the inspector has reasonable grounds to believe is present in a food establishment or was used or was obtained or in the contravention of any provision of this Act or NIVS regulations.

Section Nine: Power of Recall

This section of the Act provides NIVS with the authority to order the recall of a food domestically produced or imported deemed unsuitable to stay on the market and /or meeting the provisions detailed in Section 3 or 4.

The order to recall would be exercised on the producer, the retailer, or the importer, with an authority for NIVS to follow-up on the recall.

Section Ten: Authority to Authorize and/or Recognize Third Party Conformity Assessment Operators such as Certification Bodies, Voluntary Third Party Assessment Program Owners and Operators and Food Analytical Laboratories producing results for conformity assessment

This section would grant NIVS the authority to recognize, or approve / authorize a third-party organization to act as an approved conformity assessment operator including Certification Bodies, Voluntary Third Party Assessment Program (vTPA) Owners and Operators and Food Analytical Laboratories producing results for conformity assessment. These parties would be authorized and recognized to verify compliance with regulatory requirements, either domestic or foreign upon fulfilment of rules to be set by NIVS.

Section Eleven: Evaluation and Approval of Exports

This section would be set to create an authority for NIVS to certify exports, upon request from food business operators or a foreign entity, government, or organization.

This authority would enable NIVS to issue certification of exports conditioned by fulfilling the conditions set by the party receiving such exports or requesting such certification and / or NIVS.

Food and agri-food export certification would be made mandatory unless lifted through a regulatory decision or Rule by NIVS.

Section Twelve: Incorporation by reference / Recognition of Other systems

This section would be set to grant NIVS the opportunity to use specific tools in the way the regulatory oversight is to be exercised, including in the way regulations would be promulgated.

Amongst the tools for which such authorities would apply:

- ❖ The opportunity to recognize systems of food controls developed by a third party, including food safety and quality scheme developers (e.g. Voluntary Third Party Assessment (vTPA) schemes), or other countries or competent authority requirements, as they pertain to an area of oversight of NIVS.
- ❖ The opportunity to incorporate by reference in a regulation or a rule set by NIVS a text developed by a trusted third party designated by NIVS including:
 - The Codex Alimentarius Commission.
 - A regional food standardization or regulatory organization, e.g. CAHFSA.
 - Another government or competent authority.
 - An authoritative scientific or technical organization recognized by NIVS.

Section Thirteen: Codex Contact Point and INFOSAN Contact Point

This section gives NIVS the mandate to be the official host and exercise the coordination function for:

- ❖ The Codex Contact Point for Suriname.
- ❖ The Focal point for the International Network of Food Safety Agencies: INFOSAN.

Section Fourteen: Disclosure of Information

This section gives NIVS the authority to mandate a food operator to disclose information related to food production or handling if NIVS demonstrates that such information is needed for the public interest or for ensuring food safety.

This authority would also enable NIVS to disclose such information to the public and/or to another Government organization or international competent authority, including international organizations, if such information was deemed for the public interest to protect health and safety of consumers domestically and /or internationally.

This provision would therefore lift obligations that NIVS may have to respect confidential business information (CBI), upon demonstration of the requirements to act on the basis of such information to protect health and safety domestically or internationally.

Section Fifteen: Offenses / Infractions and Penalties

This Section would set the authorities related to consequences for offenses and infractions through setting penalties. This section would include a provision pertaining to the commensurate nature of the penalty with the level of risk to consumers or the reputation of the food supply in Suriname.

*Section Sixteen: Regulation making authorities under the Food Act*General Regulation-Making Authority for Managing Food Safety and Composition:

This section should also provide NIVS with authorities to issue rules pertaining to safety, nutritional quality and other quality requirements of food available for sale in Suriname, including ingredients and conditions of preparation of food. These rules are to be enforceable under the Act

Specific Regulation Making Authorities to Manage Contaminants in food: including regulation making authority to prohibit the same and import of food that would be considered in infraction.

The legislation should also offer a more blanket regulation making authority for NIVS to develop regulations or rules promulgated **under a designated level of authority: e.g., Minister or CEO or Board of Trustees of NIVS** that prohibit the sale and/or the import of food, to protect food safety and / or the food production supply chain in Suriname (it can be more than health-driven).

The legislation should also include regulation-making authorities provided to NIVS to designate:

- ❖ A food that is unfit for consumption.
- ❖ A Food that would be exempt from the prohibition if it meets certain conditions (for example set maximum levels, acceptable additives, acceptable levels of pesticides etc...) - **This authority provides NIVS with the standard setting mandate.**
- ❖ Conditions of food preparation and handling of food that are deemed exempt from the prohibitions.
- ❖ Conditions of import of food that are deemed exempt from the prohibitions.

These rules are to be enforceable under the Act

Specific Regulation-Making Authorities related to managing substances used in conjunction with food production

This authority would enable NIVS to issue rules to enable the use and/or to issue prohibition and/or lift prohibition related to substances and processes used in conjunction with food production, including and not limited:

- Use of food additives
- Use of processing aids
- Use of incidental additives
- Use pesticides and management of pesticide residues
- Use of veterinary substances with food producing animals, including in food and management of residues of veterinary drugs in food
- Development and availability of novel foods
- Use of nutrients to fortify or supplement food products
- Use of certain food production processes such as food irradiation as well novel food processes

Specific Regulation-Making Authorities for Feed

The legislation should offer regulation-making authorities to NIVS to set rules related to the acceptability and safety of feed, based on human health considerations and related to the use of feed with food producing animals.

These rules are to be enforceable under the Act

Specific Regulation-Making Authorities for Processing Water

The legislation should offer regulation-making authorities to NIVS to set rules related to the acceptability and safety of water used to process food and all water sources used in food processing establishments.

Specific Regulation-Making Authorities for Food Labeling and Food Composition

The Legislation should create regulation-making authorities for NIVS to enable the development of food labeling rules to support the protection of consumers' health (e.g. food allergen labeling or nutrition labelling rules) and fairness in food trade (e.g., Quality rules related to conditions of production such as Organic Food or local food). These rules are to be enforceable under the Act .

The authorities provided would allow to develop rules prohibit misrepresentation of food and its false labelling, including specifying the conditions for such mis-representation.

These rules would also allow to use certain statements in a discretionary manner on food labels, such as health claims.

The Legislation should also create regulation-making authorities for NIVS to enable the development of composition requirements for food that need to be considered as standardized food, which would become enforceable.

Specific Regulation-Making Authorities to set conditions of operation of food production establishments and farming operations related to food safety

This section should provide NIVS with authorities to set conditions of food preparation and handling using rules to be issued by NIVS.

This section would also provide NIVS with the authority to set prohibitions of certain conditions of production, including but not limited to, sourcing, processing, storing and transporting that may lead to injury to health or render the food unfit for consumption.

The section would also provide NIVS with a regulation-making authority to issue rules lifting any prohibition in relation with food preparation, and handling including the establishments where foods are prepared, the transportation vehicles where they are transported and the warehouses where they get stored, along with the possibility to set conditions to support such lifting of prohibitions.

This section would also more specifically include authorities for NIVS to develop requirements for FBOs to be allowed to operate in Suriname as an approved food establishment, including the development of conditions for Pre-Requisite Programs (PRPs), Preventive Controls and Traceability requirements.

The developed rules are to be enforceable under the Act and become conditions of food operations in Suriname, covering the entire food chain from farming operations (with rules specific to food safety requirements), to processing establishments, retailers, importers and exporters.

Specific Regulation-Making Authorities to set, prescribe and amend Powers of Inspectors

The Act would provide regulation making authority for NIVS to prescribe and amend Powers of Inspectors or to offer guidance on how the powers of the inspector are to be interpreted or implemented.

Specific Regulation-Making Authorities to set, prescribe and amend conditions of approval and operations of Third Party Conformity Assessment Partners

The Act would provide regulation making authority for NIVS to prescribe and amend conditions of acceptance and the management of operations of third-party conformity assessment partners operating in Suriname or abroad with a scope of operation related to food produced in Suriname or to be imported into Suriname.

Conformity assessment activities encompassed in this authority include but are not limited to:

- Voluntary Third-Party Assessment Programs (vTPA), their development and implementation
- Food laboratory analysis operations supporting conformity assessment
- Any third-party certification operator

Specific Regulation-Making Authorities related to conditions of food import and export

The Act would provide regulation-making authority for NIVS to manage import control, export certification, including setting conditions for acceptability of food importers, export certification including the development of compulsory measures to certify food and agri-food exports from Suriname, and lifting any obligation or prohibition pertaining to food import and export.

Specific Regulation-Making Authorities related to managing products seizure and /or forfeiture

This Act would create delegation of authority to NIVS to develop regulations and rules in relation with managing products seized and conditions of seizure and / or forfeiture of food by NIVS and its officers, including conditions of destruction of such food and / or items.

For all the above authorities, create an obligation for NIVS under the Act to:

- Comply with obligations of the Republic Suriname under the World Trade Organization Rules in particular under the Sanitary and Phytosanitary agreement, as well as the Technical Barrier to Trade Agreement
- Follow the risk analysis principles when developing rules and decisions under the rules pertaining to food safety and nutrition