

## Harmonized standards for kava safety and quality: The role of FAO CODEX

Ignacio Carreño, SPS/TBT Expert and Senior Associate, FratiniVergano – European Lawyers

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) concerns the application of food safety and animal and plant health regulations. The SPS Agreement allows countries to set their own standards. However, it also specifies that regulations must be based on scientific findings and should be applied only to the extent that they are necessary to protect human, animal or plant life or health. The SPS Agreement encourages governments to “harmonise” or base their national measures on the international standards, guidelines and recommendations developed in international organisations. In relation to food safety, the relevant organisation is the joint FAO/WHO Codex Alimentarius Commission. A Codex Alimentarius standard for kava should be developed, so that Pacific Countries could then produce, harvest, dry, store and export according to internationally-recognised quality and safety standards. Trade restrictive SPS measures should not be imposed on products that comply with such standard. WTO rules can then be used to shift the burden of proving that possible other standards required by importing countries are scientifically justified, if not based on or conforming to the FAO CODEX. In simple terms, “Define standards necessary for the protection of human health, and secure them by FAO/Codex standards - it will be difficult for third parties to ask for more.”

The Procedural Manual of the Codex Alimentarius Commission (CAC) describes the legal foundations and practical functioning of the CAC and its subsidiary bodies. The question is “Who develops a standard?” Coordinating Committees for regions or groups of countries exercise general coordination in the preparation of standards relating to such regions or groups of countries. For the Pacific Region, FAO/WHO have established the Coordinating Committee for North America and the South West Pacific (CCNASWP). Therefore, as to the procedure to follow, it is the CCNASWP who should decide to recommend to the Codex Alimentarius Commission to consider and approve new work in form of a Standard for Kava. The CCNASWP Codex Standard for Kava will then be drafted in accordance with the Codex uniform layout for food products.

The role of science in the development of Codex Standards is addressed in the Statements of principle concerning the role of science in the codex decision-making process and the extent to which other factors are taken into account. It provides, e.g., that *the food standards, guidelines and other recommendations of Codex Alimentarius shall be based on the principle of sound scientific analysis and evidence, involving a thorough review of all relevant information, in order that the standards assure the quality and safety of the food supply.*

Discussions on a Codex Standard for Kava have been carried out since (at least) 2004 in the CCNASWP. Codex members in the CCNASWP include: from North America (Canada and the United States of America); and from the South West Pacific (Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga, and Vanuatu). At the 11th session of the CCNASWP in 2010, a new Discussion paper on the development of a standard for kava (prepared by Tonga with the Assistance of Cook Islands, Federated States of Micronesia, Fiji, Papua New Guinea, Kiribati, Samoa, Solomon Islands, Vanuatu) was presented. The 12th Session of CCNASWP IS scheduled from the 17/09/2012 to the 20/09/2012 in Madang (Papua New Guinea). The main issue identified in the last meeting in 2010 is the need for more scientific evidence on the safety of kava products and more clarity on the nature of the products to be

standardized and the need to decide whether the proposal was for a regional or a worldwide standard. This needs to be addressed in the 2012 meeting!

While there is no specific standard for kava yet, the general Codex standards apply. Kava products should be prepared and handled in accordance with the appropriate sections of the Recommended International Code of Practice - General Principles of Food Hygiene which lay a foundation for ensuring food hygiene. They provide guidance to the food chain from primary production to the final consumer, highlighting the key hygiene controls at each stage, and recommending an HACCP (Hazard Analysis and Critical Control Point)-based approach to enhance food safety as described in the HACCP system and guidelines for its application. In practice, it appears that, for instance, at the point of the production process where kava is dried, there seem to be problems with moulds due to the humid climate. This is where HACCP systems appear to be needed to ensure food safety as moulds could result in contamination with aflatoxins – fungal toxins which are restricted in food and drugs. Aflatoxins are considered carcinogens and hepatotoxins.

Further to the need for more scientific evidence on the safety of kava products and more clarity on the nature of the products to be standardized, the CCNASWP identified the need to decide whether the proposal was for a regional or a global standard for kava. The difference between regional and global standard is basically whether there is “significant intra-regional trade” vis-à-vis “significant trade, between or within other regions”. A significant amount of kava is being traded within the countries of the region. All kava (sourced exclusively from the Pacific Island Countries) is being exported to countries, such as Japan, New Zealand, Canada, China, and US.

What are the next steps in relation to the development of a Codex Standard for Kava?

The scientific outcome of the study should be provided to the CCNASP which generally agreed that further scientific research was needed to clarify a number of safety issues, prior to considering the standardization of kava for food. The scientific findings should be ideally presented at the 12th session of the CCNASWP in 2012. The CCNASWP should then decide to recommend to the Codex Alimentarius Commission to consider and approve this proposal for new work. A worldwide Codex Standard for kava should then be drafted in accordance with the Codex uniform layout for food products for “safe” kava as defined by this study. In line with the scientific outcome of this study, only “noble” kava should be standardised due to the unsafe properties of (e.g.) Two-day kava or Piper wichmanii-varieties. The question is how to define “noble” kava. The study is basically proposing the specifications (ratio kavain : dihydromethysticin and/or kavain: methysticin, restriction of flavokavin B). “Scientific” specifications are often part of Codex standards. For example, the Codex standard for Ginseng products describes under “quality factors” ginsenosides and provides for detailed methods for analysis and sampling. Similar “language” could be used for the kava specifications. With respect to plant parts, only secondary roots and skinned root stumps (chips) should be selected. Further to a Codex Standard on kava, what is also needed in the future is the elaboration and acceptance of a Code of Practice for kava by Codex which will provide uniform guidance for all countries to consider in attempting to control and manage the safety/contamination which are arising in kava production.