

# BLUEPRINT for a NATIONAL FOOD STRATEGY



Evaluating the potential for a national  
food strategy in the United States

FEBRUARY, 2017



CENTER FOR  
AGRICULTURE &  
FOOD SYSTEMS



WITH SUPPORT FROM THE W.K. KELLOGG FOUNDATION

# AUTHORS AND ACKNOWLEDGEMENTS

---

## AUTHORS

This report was produced in partnership between the Center for Agriculture and Food Systems at Vermont Law School and the Harvard Law School Food Law and Policy Clinic, with support from the W.K. Kellogg Foundation. The lead authors of this report are **Emily Broad Leib**, Director of the Harvard Law School Food Law and Policy Clinic, **Laurie J. Beyranevand**, Professor of Law and Senior Faculty Fellow for Food Law and Policy of the Center for Agriculture and Food Systems at Vermont Law School, and **Emma Clippinger**, Clinical Fellow of the Harvard Law School Food Law and Policy Clinic, with input and editing support from **Laurie Ristino**, Associate Professor of Law and Director of the Center for Agriculture and Food Systems at Vermont Law School and **Aurora Moses**, Assistant Professor of Law and Clinical Staff Attorney of the Center for Agriculture and Food Systems at Vermont Law School.

The following student members of the Harvard Law School Food Law and Policy Clinic also contributed significant research and writing to this report: **Mark Brennan**, **Drake Carden**, **Claudia Golden**, **Miranda Jones**, **Anthony Lombardi**, **Olivia Smith**, and **Conrad Zhong**.

## ACKNOWLEDGEMENTS

**This report would not have been possible without the assistance, cooperation, and production support of Sarah Danly, Program Officer of the Center for Agriculture and Food Systems at Vermont Law School, and Lihlani Skipper, Program Officer of the Center for Agriculture and Food Systems at Vermont Law School.** In addition, we thank the following individuals for their assistance and support: **Ona Balkus**, **Amber Leisure-Earnhardt**, **Jill Mahoney**, **Carrie Scrufari**, **Rebecca Valentine**, **Margot Hoppin**, and **Justin Teruya**.

**We would like to thank the following people for reviewing this report.** The reviewers do not necessarily concur with the report's recommendations, but advised on portions of its content. **Kate Clancy**, Food Systems Consultant/Visiting Scholar at the Center for a Livable Future at Johns Hopkins/Senior Fellow at the Minnesota Institute for Sustainable Agriculture, **Ferd Hoefner**, Founding Member and Senior Strategic Advisor, National Sustainable Agriculture Coalition, and **Susan Kraham**, Senior Staff Attorney, Columbia Environmental Law Clinic.

**Finally, we would like to thank the many people interviewed prior to and during the drafting of this report.** **José Alvarez**, Senior Lecturer, Harvard Business School (formerly CEO, Stop & Shop/Giant-Landover), **Molly Anderson**, Professor of Food Studies, Middlebury College, **Peter Barton Hutt**, Senior Counsel, Covington & Burling (formerly FDA), **Claire Benjamin DiMattina**, Food Policy Action, **Ted Brady**, Rural Development State Director for VT & NH, USDA, **Kate Clancy**, Food Systems Consultant/Visiting Scholar at the Center for a Livable Future at Johns Hopkins/Senior Fellow at the Minnesota Institute for Sustainable Agriculture, **Scott Cullen**, Executive Director, GRACE Communications Foundation, **Olivier De Schutter**, Professor, University of Louvain and Sciences Po (formerly UN Special Rapporteur on the Right to Food), **Hilal Elver**, UN Special Rapporteur on the Right to Food, **Kate Fitzgerald**, Food Systems Consultant, **Robert Greenwald**, Clinical Professor, Harvard Law School/Director, Center for Health Law and Policy Innovation at Harvard Law School/President's Advisory Council on HIV/AIDS, **Elizabeth Henderson**, Agricultural Justice Project, **Ferd Hoefner**, Founding Member and Senior Strategic Advisor, National Sustainable Agriculture Coalition, **Wes Jackson**, Land Institute, **Saru Jayaraman**, Restaurant Opportunities

**Centers United, Meghan Jeans, New England Aquarium, Bill Jordan, Environmental Consultant (formerly EPA), Eric Kessler, Founder, Principal, and Senior Managing Director, Arabella Advisors, Patty Lovera, Assistant Director, Food and Water Watch, Bob Martin, Food System Policy Program Director, Center for a Livable Future, Danielle Nierenberg, Co-founder and President, Food Tank, Erik Olson, Health Program Director, National Resources Defense Council, Janelle Orsi, Sustainable Economies Law Center, Anne Palmer, Food Communities and Public Health Director, Center for a Livable Future, Chellie Pingree, US Congresswoman from Maine, Doug Rauch, Founder and President, Daily Table (formerly President, Trader Joe's), Eric Rimm, Professor, Harvard School of Public Health, Ricardo Salvador, Director, Food & Environment Program, Union of Concerned Scientists, Gus Schumacher, Founding Board Chair, Wholesome Wave (formerly USDA), Elanor Starmer, Administrator, Agricultural Marketing Service, USDA, Karen Washington, Community Activist, Farmer and Co-owner, Rise and Root Farms, and Mark Winne, Food Policy Council Expert and Consultant.**

**Report Layout and Design:** Ericka Wallis, Graphic Designer at Community Blueprint and **Andy Berndt**, Director at Community Blueprint [www.communityblueprint.com](http://www.communityblueprint.com)

## ABOUT THE CENTER FOR AGRICULTURE AND FOOD SYSTEMS AT VERMONT LAW SCHOOL



The Center for Agriculture and Food Systems (CAFS) has a dual mission: to train the next generation of food and agriculture advocates and entrepreneurs, and to create innovative legal tools supporting the new food movement. CAFS is also a center for advocacy. Beyond the classroom, CAFS faculty and students collaborate with local, regional, national and international partners to produce legal tools that advance smart market and policy initiatives geared toward improving the food system and its impact on the environment, public health, local economies, food security and animal welfare. CAFS creates legal tools for an array of food system stakeholders, including farmers, food producers, food entrepreneurs, consumers, legislators, administrators and health care professionals. CAFS' dynamic curriculum and trans-disciplinary, collaborative advocacy reflect its core belief that complex food system problems require creative, systemic solutions. For more information, visit: [www.vermontlaw.edu/academics/centers-and-programs/center-for-agriculture-and-food-systems](http://www.vermontlaw.edu/academics/centers-and-programs/center-for-agriculture-and-food-systems) or follow us on social media [@CAFScenter](#).

## ABOUT THE HARVARD LAW SCHOOL FOOD LAW AND POLICY CLINIC



The Harvard Law School Food Law and Policy Clinic, a division of the Center for Health Law and Policy Innovation, is the first law school clinic in the nation that aims to address the environmental, health, and economic consequences of the laws and policies that structure the food system. The Clinic is an experiential teaching program of Harvard Law School that links law students with opportunities to serve clients and communities grappling with various food law and policy issues. The Clinic strives to increase access to healthy foods, assist small-scale and sustainable farmers and producers, and reduce the waste of healthy, wholesome foods. For more information, visit [www.chli.org/flpc](http://chli.org/flpc) or follow on social media [@HarvardFLPC](#).

# CONTENTS

---

	Executive Summary.....	06
<b>I. INTRODUCTION</b>	<b>A. Overview .....</b>	10
	<b>B. Methodology.....</b>	14
	<b>C. Context and Challenges .....</b>	16
	<b>D. Evaluating the Opportunity.....</b>	21
<b>II. INTERNATIONAL FOOD STRATEGIES</b>	<b>A. Introduction .....</b>	23
	<b>B. Initiating Factors .....</b>	26
	<b>C. Engaging Stakeholders.....</b>	28
	<b>D. Strategic Objectives .....</b>	32
	<b>E. Conclusion.....</b>	37
<b>III. U.S. NATIONAL STRATEGIES</b>	<b>A. Introduction .....</b>	38
	<b>B. Impetus .....</b>	41
	<b>C. Enacting Authority: Executive Action, Executive Order, etc.....</b>	44
	<b>D. Organizing Authority: Agencies, Officials, and Experts .....</b>	46
	<b>E. Gathering Information from the Public and Other Sources.....</b>	48
	<b>F. Creation of a Written Strategy .....</b>	49
	<b>G. Ongoing Reporting and Periodic Updating .....</b>	51
	<b>H. A Procedural Mandate.....</b>	52
	<b>I. Conclusion.....</b>	54
<b>IV. KEY FINDINGS AND RECOMMENDATIONS</b>	<b>A. Coordination.....</b>	56
	<b>B. Participation .....</b>	57
	<b>C. Transparency &amp; Accountability .....</b>	59
	<b>D. Durability.....</b>	60
	<b>E. Conclusion.....</b>	62
	Endnotes .....	64
	Appendices .....	79



## HOW TO INTERACT WITH THIS REPORT



Throughout the pages of this report, you will come across various feedback prompts marked with this icon. Each prompt poses questions about the text that not only will allow us to better understand the diverse opinions of our readers, but will help readers to better comprehend and engage with the subject of the report.

If you plan to fill in these prompts, please be sure you **[download this PDF](#)** onto your computer so that you can save your progress and submit your answers to us. Below each feedback prompt is a text box where you can type your answers. The end of the report includes a “Submit” button along with a few optional questions about yourself. Please use this button to submit any answers before closing out of the report. For more content and to see what other people are saying, visit the project website at **[foodstrategyblueprint.org](http://foodstrategyblueprint.org)**. We’re eager to hear what you have to say!

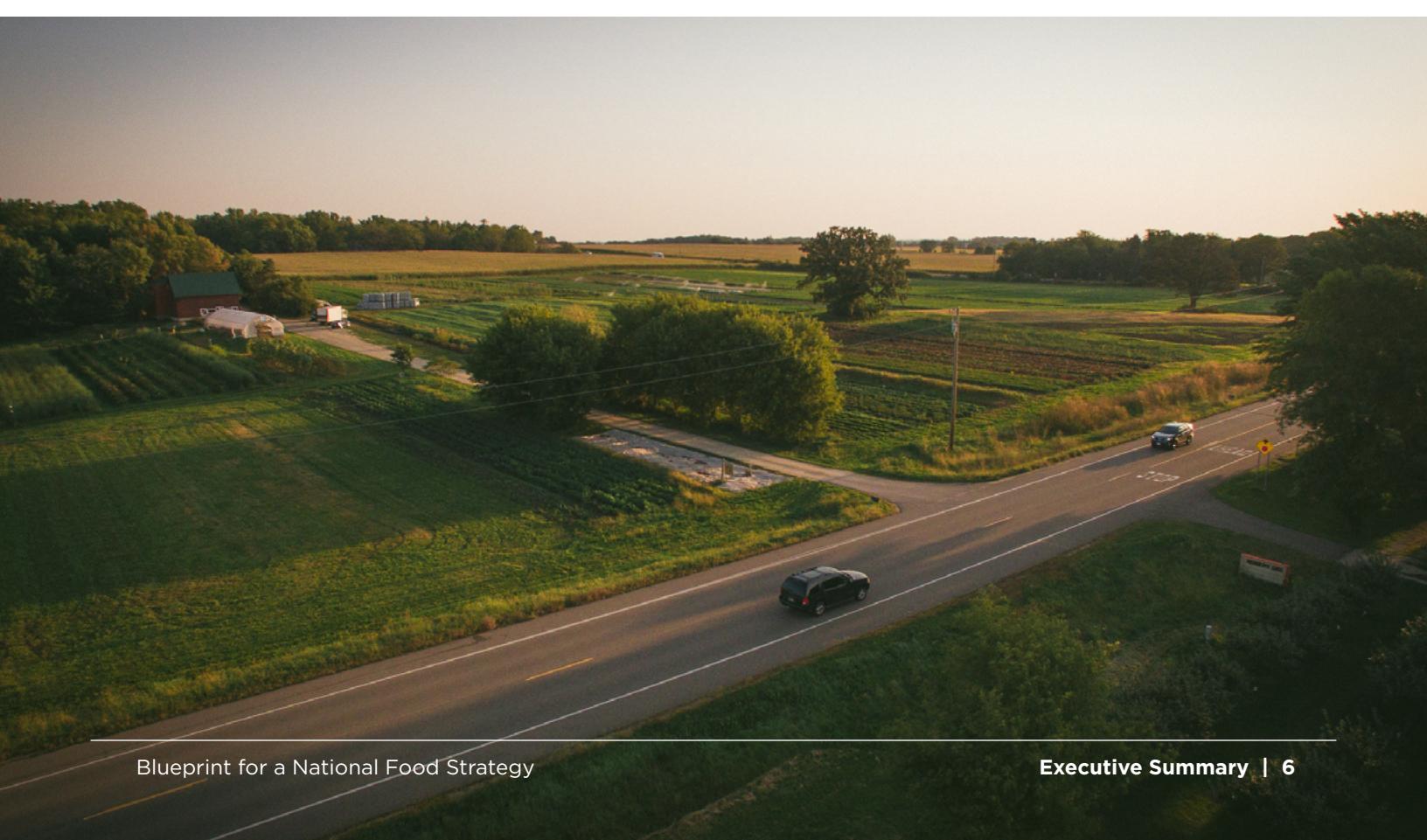


# EXECUTIVE SUMMARY

Eating is a fundamental human need, and the food and agriculture system is vital to the American economy. Yet, our food system often works at cross-purposes, providing abundance while creating inefficiencies, and imposing unnecessary burdens on our economy, environment, and overall health. Many federal policies, laws, and regulations guide and structure our food system. However, these laws are fragmented and sometimes inconsistent, hindering food system improvements. To promote a healthy, economically viable, equitable, and resilient food system, the United States needs a coordinated federal approach to food and agricultural law and policy – that is, a national food strategy.

A national food strategy has the potential to offer a comprehensive, coordinated path forward to improve the food system. Specifically, it could help leaders and members of the public understand how various aspects of food and agriculture connect and are interdependent. The process of developing a strategy could clarify where agencies and legislators currently undertake overlapping or conflicting activities. In addition, the process could provide opportunities for soliciting and incorporating public and stakeholder input. Ultimately, a national food strategy could harmonize law and policymaking around food and agriculture, providing a mechanism for legislators and agencies to establish, prioritize, and pursue common goals.

This report provides a roadmap for the process to develop a national food strategy. Consequently, it focuses primarily on process rather than policy, because an effective process is a critical foundation to any coordinated strategy. In developing this blueprint, this report examines several models, which collectively may chart a path for such a strategy. First, several nations have developed national food strategies that may inform American efforts. These countries generally have food system challenges



similar to those in the United States – e.g., maintaining or improving the success and resilience of the food and agricultural sectors, ensuring access to healthy food, promoting sustainable food production, and harmonizing the work of numerous agencies. Their strategies also illustrate a range of methods that can be used to engage agencies, diverse stakeholders, and the general public in strategy creation.

The United States also serves as a model for this blueprint, as there are many domestic national strategies addressing a range of topics. This report explores select U.S. national strategies on diverse issues from the domestic HIV/AIDS epidemic to environmental justice. These strategies serve to illustrate the legal and policy mechanisms employed by domestic efforts to address important and complex social issues in need of federal coordination. Regardless of the motivation, these domestic strategies share key components and characteristics, including utilizing an organizing authority, incorporating stakeholder and public engagement, enshrining goals in a written document, and ensuring periodic updating. These mechanisms demonstrate the capacity of the U.S. political system to address complex issues, and these key components provide a framework for the features that should structure a national food strategy.

Presently, our food system struggles to serve the needs and interests of all Americans. The piecemeal policy and regulatory framework pertaining to food and agriculture also fails to accomplish needed improvements. Yet, the United States possesses the tools needed to address this vital system. A comprehensive and coordinated federal approach to law and policymaking is critical to an economically viable, resilient, equitable and food secure future for America. To that end, this report identifies four major principles to guide the creation of a national food strategy in the United States. Each principle describes the findings supporting it and includes a set of recommendations to lay the foundation for an effective comprehensive national strategy. In brief, these recommended principles are:

## 1. COORDINATION

Existing laws and regulations related to the food and agriculture system lack coordination and are sometimes inconsistent with one another. A national food strategy must coordinate existing laws and policies to strengthen the food system, address trade offs, and identify gaps. To accomplish those goals, a national food strategy should establish a lead agency or office with adequate funding to execute its mission, supported by the coordination of other key agencies engaged in food system regulation.

- **Identify a lead office or agency and provide it with resources and the authority to compel engagement and action in the creation of the strategy.** Lead authority to craft the strategy should be given to an office within the White House or a federal agency. This office should have the ability to convene, gather information, and compel other agencies to engage in the process.
- **Create an interagency working group.** This group could coordinate the key offices and agencies that oversee the laws and regulations that shape our food system, gather information from stakeholders, and oversee implementation of the strategy.
- **Engage state, local, and tribal governments as key partners.** State, local, and tribal governments are at the forefront of food system change, and the strategy should respect and support their creativity, as well as reflect their goals and priorities.

## 2. PARTICIPATION

The current legislative and regulatory framework provides few opportunities for key stakeholders and the public to provide meaningful input, ultimately foreclosing consideration of their needs and interests. A successful national food strategy must incorporate views and insights from a diversity of key stakeholders. Moreover, the strategy should respond to their input, explain how it is being considered, and provide opportunities for ongoing feedback.

- **Create an advisory council to engage those outside government in strategy development.** An advisory council, made up of stakeholders from outside the federal government representing a broad range of perspectives would allow for varied expertise to support the creation of the strategy.
- **Develop a multi-pronged approach for stakeholder and public participation and provide opportunities for feedback throughout the process.** The strategy should offer ample options for public input. Specifically, stakeholders and the public should be included in the early stages of formation, before priorities have been set, and at key points during the strategy's development.
- **Respond to public input.** The strategy should include public input at various stages and clearly respond to the public and stakeholder's ideas and comments, explaining why one course of action has been chosen over another.

## 3. TRANSPARENCY AND ACCOUNTABILITY

Americans increasingly desire transparency regarding the specifics of food production and processing. However, they often struggle to access and understand information about how laws and policies affect the food and agriculture system. A national strategy should provide the public with a robust platform for food system transparency, including information regarding how laws and policies shape the food system while offering multiple opportunities for public and stakeholder input.

- **Create a written strategy document that includes priorities, goals, expected outcomes, implementation measures, and concrete metrics for measuring progress.** The strategy should clearly articulate goals and explain how they are to be implemented and measured.
- **Require publication of accessible, public-facing reports that measure progress against the strategy's goals, metrics, and expected outcomes.** The written strategy document should require regular reporting to evaluate progress and promote accountability. These reports should be both accessible and comprehensible to the general public.

## 4. DURABILITY

Our vast and intricate food system is constantly changing, as are scientific knowledge and technology. Improvements to the food system will likely require commitment to long-term change. Consequently, a national food strategy must be both concrete, to set and achieve long-term goals, and flexible, to evolve.

- **Ensure periodic updating of the strategy to reflect changing social, economic, scientific, and technological factors.** The strategy should be updated periodically to evolve, responding

to changing goals and new challenges, and reacting to critical developments in science and technology.

- **Implement a procedural mechanism to guide agency decision-making.** A procedural mechanism requiring consideration of food system impacts, like the National Environmental Policy Act (which requires agencies to consider environmental impacts of their actions), could ensure that agencies account for food system impacts when taking future actions.

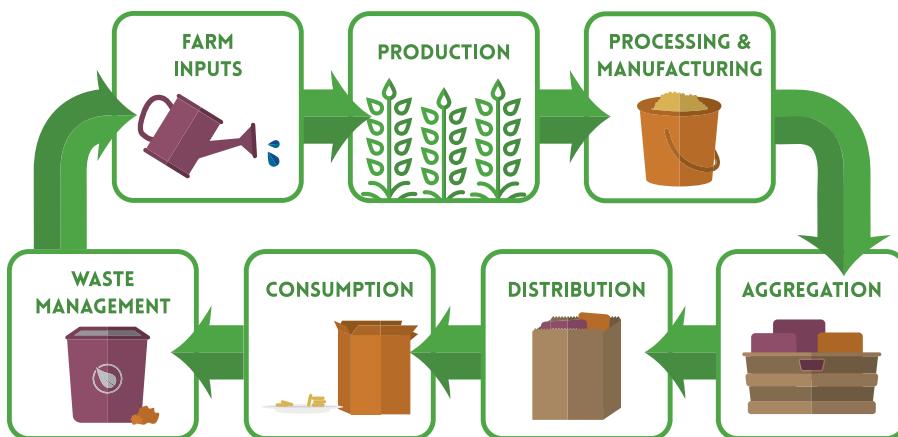
Using these mechanisms to coordinate laws, policies, information, and perspectives related to the food system can serve to lay the framework for an effective and urgently needed comprehensive national food strategy that promotes the needs and interests of all Americans.

# I. INTRODUCTION

## A. OVERVIEW

The United States' agriculture and food system ("food system")<sup>1</sup> plays a central role in feeding, clothing, and powering our nation. Yet, our national laws and policies do not address the food system in a comprehensive manner. Coordinated law and policy approaches are particularly useful to address issues as diffuse and interconnected as those inherent to the food system. As this report illustrates, the United States could reap significant benefits from a national food strategy, or coordinated federal approach to food and agricultural law and policy. Such an approach could reduce administrative redundancy, increase legislative and agency coordination, and improve food, health, economic, and environmental outcomes. Simultaneously, a national strategy can engage stakeholders and the public, providing ongoing opportunities for feedback and policy development.

**FOOD SUPPLY CHAIN** (Fig. 1)



The food system touches many Americans. Agriculture and agriculture-related industries employ 10% of the population,<sup>2</sup> while the entire population participates in the system as consumers. Given its reach, the complex challenges presented by the food system, including significant externalized costs, are acute. America's obesity crisis represents one of these challenges: over the past thirty years, adult obesity rates have more than doubled<sup>3</sup> and childhood obesity rates have more than tripled.<sup>4</sup> Today, over 36% of American adults and 17% of children and adolescents are obese.<sup>5</sup> The connection between the obesity epidemic and the food system has been well established.<sup>6</sup> While the full toll of obesity on America's economy is hard to quantify,<sup>7</sup> estimates of healthcare costs alone range from \$147 billion<sup>8</sup> a year to nearly \$190 billion a year.<sup>9</sup>



### WHAT'S YOUR PERSPECTIVE?

What does a food system mean to you? What elements does it encompass?

What food system issues are most important to you?

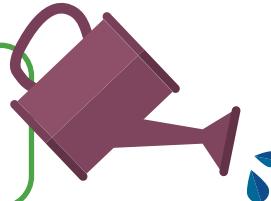
# THE FOOD SYSTEM

(Fig. 2)

The food system consists of more than just the food supply chain (see Fig. 1). It includes a number of other factors that impact and are impacted by the food supply chain.

## FARM INPUTS

The natural resources used in producing food, such as soil, water, and land, and other inputs used to increase agricultural outputs, such as fertilizers and pesticides.



## PRODUCTION

The process of growing and producing food, involving the combination of land, water, and labor resources with capital, machinery, and other inputs.



## PROCESSING & MANUFACTURING

The modification of raw agricultural products, often to add value or create ready-to-eat foods.



## AGGREGATION

The consolidation of products from multiple small-scale growers to generate wholesale volumes.



## DISTRIBUTION

The process and infrastructure involved with moving food products from the end of the production line to the retailer or consumer.



## CONSUMPTION

The process of purchase and/or consuming food products.



## WASTE MANAGEMENT

The process of recycling or discarding food and other agricultural products used in the process of producing food products.

ENVIRONMENTAL



ECONOMIC



HEALTH



SOCIAL



Although obesity tends to connote overabundance, it is linked to another of our food system's most pressing challenges: food insecurity.<sup>10</sup> America's household food insecurity rate was 12.7% for 2015,<sup>11</sup> but has hovered around 14% over the past five years.<sup>12</sup> Annually, food insecurity costs the United States an estimated \$160 billion in direct healthcare spending, special education services, and lost productivity.<sup>13</sup> Further, despite the fact that food is relatively inexpensive in the United States, it remains expensive for those who need it most. The wealthiest Americans spend approximately 8% of their income on food – among the lowest in the world – while the poorest Americans spend 34% of their income on food.<sup>14</sup>

The food system also significantly impacts our environment, imposing substantial costs by utilizing a significant portion of the United States' natural resources. Agricultural production accounts for 80%-90% of the country's consumptive water use<sup>15</sup> and nearly 40% of land is dedicated to agricultural purposes.<sup>16</sup> Agriculture also contributes 10% of the country's greenhouse gas emissions.<sup>17</sup> Because resources are used inefficiently, nearly 40% of food produced in the United States becomes waste.<sup>18</sup> In addition to the wasted agricultural inputs, food waste creates additional environmental harms due to decomposition in landfills, which results in methane emissions.<sup>19</sup>

While such challenges may appear distinct, they are interdependent on one another, as well as a range of policy choices. Effectively tackling obesity, for example, requires accounting for the host of policies that inform and impact consumption patterns. Such policies include the dietary guidelines that serve as the basis for school meals and state health agencies, in conjunction with the food and agricultural policies that make certain foods more readily available and affordable than others.<sup>20</sup> However, the policies that impact consumption patterns also affect other aspects of the food system. Specifically, these policies have environmental ramifications related to agriculture's carbon footprint,<sup>21</sup> and its impact on safe drinking water.<sup>22</sup> The policies that have helped to ensure a relatively cheap food supply also have distributional effects, as those who produce, harvest, and prepare our food are often themselves suffering from poverty and food insecurity.<sup>23</sup> Consequently, while the obesity epidemic serves as an example of a food systems challenge impacted by a range of fragmented laws and policies, it also helps to illustrate that the same set of laws and policies result in a number of unintended negative consequences across the food system.

A national food strategy could address these vital issues by establishing a set of food system goals and requiring a coordinated approach to foster considered law and policy making in accordance with them. As demonstrated in this report, such an approach involves identifying the points where federal agencies engage in overlapping or conflicting food system policy creation and regulation. In turn, a national strategy creates the means by which to reduce these shortcomings through greater communication and coordination. A national food strategy could also provide a platform for greater public and stakeholder participation in policymaking. In response, policymakers can anticipate and plan for future food system challenges, including the allocation of resources and authority needed to address these challenges.



**RICARDO  
SALVADOR**

Director, Food &  
Environment Program,  
Union of Concerned  
Scientists

**THE SYSTEM COULD BE FAR  
MORE EFFICIENT AND PRODUCE  
BETTER OUTCOMES FOR  
THE PUBLIC IF WE ACTUALLY  
CAME UP WITH A STRATEGY  
THAT COORDINATED WHAT  
EVERYONE IS TRYING TO  
ACCOMPLISH.**

Increasingly, policymakers and the public at large are concerned about the impacts of our food system. One manifestation of this awareness is a growing dialogue about the need for a framework to coordinate the laws and policies that affect the food system.<sup>24</sup> Much of this national dialogue has focused on substantive policy goals and recommendations. This report does not prescribe what those goals should be nor does it prescribe the content of a national food strategy. Rather, the Blueprint for a National Food Strategy offers a process roadmap to identify goals, and create an actionable plan to achieve them. To do so, the report draws on other global and domestic models to illustrate why a national food strategy is beneficial, and how it could be developed.

The report begins with a brief background section illustrating some of the challenges posed by the United States' fragmented approach to food system law and policymaking. In particular, this section discusses the major federal laws and policies pertaining to the food system and the agencies involved in their implementation. The context section then presents a set of examples that elucidate existing tensions between federal laws and policies, which create confusion and resultant harms.

Next, in Section II, the report examines six international food strategies, aspects of which can serve as models for such a strategy in the United States. This section reviews the impetus for creating national food strategies in those countries—what was the defining challenge or opportunity—and how they were enacted. Additionally, this section highlights some key facets of policy development, including the manner in which stakeholders and civil society were engaged in the process, and the topical areas covered in the strategies.

In Section III, the report considers coordinated national strategy precedents within the United States. The United States has enacted many national strategies that serve a variety of purposes. Specifically, these strategies serve as models for coordinating action among various agencies, setting national goals and concrete targets, and gathering information from the public and key stakeholders on an ongoing basis. This section highlights strategies that either share some topical relevance to food and agriculture or illustrate one particular model, such as a congressional commission or community-initiated strategy. Finally, this section presents a range of existing legal and procedural mechanisms from which to learn when considering a coordinated national food strategy.

Finally, in Section IV, the report draws on the challenges and opportunities presented by the food system and the information featured in Sections II and III to present a set of Key Findings and Recommendations. This section outlines four key principles to guide future thinking about a national food strategy and its creation. The recommendations under each principle focus on specific procedural elements including what structures should be in place and who should be engaged.



## B. METHODOLOGY

Faculty and student researchers from Harvard Law School's Food Law and Policy Clinic and Vermont Law School's Center for Agriculture and Food Systems (collectively, the research team) identified and analyzed various precedents for the creation of a national food strategy in both the international and domestic contexts. The research team sought to evaluate the critical aspects of different models, and the manner in which they can be actualized into a coordinated food strategy for the United States.

Countries throughout the world have established national food strategies, and the research team chose to focus on strategies from six countries: Australia, Brazil, Norway, Scotland, the United Kingdom, and Wales. The research team selected some strategies because of social, political, and economic similarities to the United States. Other strategies were included because of their unique features – for example, Norway's strategy was the first of its kind, and Brazil's reflects a commitment to engaging stakeholders as policymakers.

The United States has enacted numerous coordinated, national-level strategies that address complex, multifaceted issues. The research team chose to focus on eight of these: National Health Security Strategy; National Quality Strategy; National Strategy for Combating Antibiotic-Resistant Bacteria; National Strategy for HIV/AIDS; President's Climate Action Plan; The National Commission on Terrorist Attacks Upon the United States ("9/11 Commission"); Interagency Working Group on Environmental Justice; and National Environmental Policy Act. These strategies were selected because of their topical relevance to food, or because they illustrate a particular mechanism, such as a congressional commission or a procedural mandate.

Concurrently, the research team conducted interviews with American food system leaders who represented various perspectives.<sup>25</sup> Interviewees were asked to describe the benefits and risks of a national food strategy and to give input on the mechanics of creating such a strategy. These interviews informed the research team's inquiries into the various precedents and what features they sought to highlight in the report's analysis, as well as the overall findings and recommendations.

## A NATIONAL FOOD STRATEGY?

### SOME KEY CONCERNs FROM INTERVIEWS AND ONLINE FORUMS

During the initial stages of researching and writing this report, the authors reached out to a number of individuals who have distinguished themselves as leading thinkers, practitioners, advocates, and policymakers within the U.S. food system.<sup>26</sup> We sought their feedback to guide our research and ensure that the report addressed key opportunities and challenges, and included content that would be informative as well as useful. In particular, we focused our interviews around four main questions:

- What do you see as the opportunities and pitfalls of a national food strategy?
- What areas and issues should be covered as part of a national strategy?
- How should it be structured?
- Who should provide input and how?

At the same time, we analyzed conversations that have been taking place online around the idea of a national food strategy. In November 2014, Mark Bittman, Michael Pollan, Ricardo Salvador, and Olivier De Schutter penned an Op-Ed in the Washington Post calling for a national food policy.<sup>27</sup> One year later, they elaborated on the idea with two posts published on Medium.<sup>28</sup> These pieces generated responses, sparking some online dialogue and deliberation.<sup>29</sup> More recently, former Agriculture Secretary Tom Vilsack voiced his support for the creation of a White House Food Council; though, he acknowledged it would not happen during his tenure.<sup>30</sup>

Between our interviews and analysis of online conversations, we found that, overall, there was strong support for the idea as a way to not only reduce fragmentation, but also raise the profile of food as national policy priority. While the more critical feedback and commentary varied, some common themes emerged, which can loosely grouped under the following statements:

**Too complicated.** Given the vastness of the food system and the countervailing interests it contains, some expressed concern that any attempt to achieve coordination among decision-makers would prove futile. Specifically, they felt that it would be difficult to bring all of the key players to the same table, let alone achieve any kind of agreement.

**Too lofty.** Even if a national food strategy could serve as forum to assemble the key players, some feared that if the strategy's goals were too abstract or exhaustive, they could become meaningless.

**Top-down.** As a national food strategy would likely be created by the federal government, there was a concern that the strategy would be "top-down" and fail to represent local, regional, and grassroots perspectives and priorities. In addition, some feared that a strategy could stifle or even directly impede those priorities.

**Exclusionary.** Many fear that a national food strategy would only exacerbate problems of underrepresentation and further solidify exclusionary policies that often leave out underrepresented interests and groups, such as low-income consumers, communities of color, small-holder farmers, and state and local governments.

**A platform for corporate interests.** For many, the fear of excluding key, yet underrepresented interests went hand-in-hand with a sense that this could become a platform for large-scale agriculture and big business to dominate food policy. With extensive lobbying experience and significant resources, these interests would drive the agenda and crowd out other voices.

*Throughout the research and writing process, the authors sought policy mechanisms, from both the domestic and international context, that could address these important concerns. The Findings and Recommendations Section, in particular, proposes structures, processes, and other best practices to mitigate some of these challenges.*

## C. CONTEXT AND CHALLENGES

Governance of our food system is complex due to the breadth of functions the system encompasses and the multiple roles, at different levels, that government plays. At the domestic federal level, there is no single “food” agency. Rather, food is regulated by a range of federal agencies with a variety of authorities and goals.<sup>31</sup> These federal agencies both regulate and promote the food and agriculture sectors. However, some have overlapping or conflicting missions.<sup>32</sup> Beyond the federal level, state and local agencies also engage in the regulation of food and agriculture, implementing a patchwork of state and local laws and policies.<sup>33</sup> Internationally, the U.S. food system is part of a highly complex global marketplace, with its own set of laws and norms.<sup>34</sup> Consequently, a broad range of agencies and laws at the federal, tribal, state, and local levels, as well as a set of international commitments, play key roles in regulating and promoting this far-ranging system.

The regulation of food safety is illustrative of one discrete food systems issue that highlights the lack of federal coordination. Fifteen different federal agencies administer at least 30 federal laws relate to food safety.<sup>35</sup> While these federal laws and regulations address unique aspects of the food system, they also result in both overlapping agency authority and regulatory gaps.<sup>36</sup> In fact, the Government Accountability Office has reported on fragmentation in the food safety system for over a decade, warning that it poses serious risks to public health, safety, and the economy.<sup>37</sup>

The primary federal agencies that regulate food safety are the Food and Drug Administration (FDA), under the Department of Health and Human Services (HHS), and the U.S. Department of Agriculture (USDA). In the early 1900s, Congress bifurcated food regulation, dividing jurisdiction between the FDA and the USDA.<sup>38</sup> Today, the FDA oversees the safety, wholesomeness, sanitation, and labeling of approximately 80% of the food supply,<sup>39</sup> while the USDA serves the same function for commercial meat, poultry, and certain egg products.<sup>40</sup> This division is hardly neat, as jurisdictional lines between the two agencies are often arbitrary. Eggs offer a well-cited example: the FDA regulates the safety of eggs in the shell while the USDA regulates the safety of eggs removed from their shells.<sup>41</sup> Confusingly, the USDA also runs a voluntary program for grading eggs in their shells.<sup>42</sup> Ultimately, this jurisdictional divide befuddles consumers and imposes unnecessary costs and burdens on producers and manufacturers, who sometimes comply with extensive regulations and inspections from both agencies.<sup>43</sup>



**PATTY LOVERA**

Assistant Director,  
Food & Water Watch

**WE DON'T HAVE A GREAT  
REGULATORY SYSTEM FOR  
LOOKING AT CONSEQUENCES  
THAT MIGHT BE IN SOMEONE  
ELSE'S DEPARTMENT. DO WE  
HAVE ANY ABILITY TO HAVE  
A CONVERSATION ABOUT  
UNINTENDED CONSEQUENCES  
FOR THE ENVIRONMENT, FOR  
PUBLIC HEALTH?**



**WHAT'S YOUR  
PERSPECTIVE?**

What resources and/or publications would you recommend that provide a description of the food system in the United States?

The FDA and the USDA, however, represent just two of the fifteen federal agencies that play a role in regulating and maintaining the food system. Beyond food safety, federal laws and regulations addressing a variety issues also impact the food system both directly and indirectly. With regard to the environment, both the Environmental Protection Agency (EPA) and the USDA draft and implement regulations and policies that have profound implications for the food system, as they affect the types of practices that may be used in food production.<sup>44</sup> The Department of Labor develops and implements regulations related to workplace compensation, health, and safety, including in the food and agriculture sectors.<sup>45</sup> The Federal Trade Commission regulates most food advertising and marketing.<sup>46</sup> The sidebar table (Chart 1) is not exhaustive, but serves to demonstrate that numerous federal departments and agencies shape aspects of the food regulatory system, both directly and indirectly.

**Chart I:** Federal Agencies and the Regulation of Food<sup>47</sup>

AGENCY	ROLE
 <b>UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)</b>	Oversees regulation and labeling of domestic and imported meat, poultry, and processed egg products; ensures quality and marketing grades; oversees animal and plant health; administers the Supplemental Nutrition Assistance Program; administers school meal programs; administers Supplemental Nutrition Assistance Program for Women, Infants, and Children; administers loans and crop subsidies for farmers; provides technical and financial support for rural communities and farmers; along with FDA, issues standards for Good Agricultural Practices; regulates and inspects farm animal transport and slaughter; promotes and oversees farm conservation
 <b>FOOD AND DRUG ADMINISTRATION, UNDER THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (FDA)</b>	Key authorities: Federal Food, Drug, and Cosmetic Act, Nutrition Labeling and Enforcement Act, Food Safety Modernization Act
 <b>CENTERS FOR DISEASE CONTROL, UNDER THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (CDC)</b>	Protects public health, including health around foodborne illnesses
 <b>ENVIRONMENTAL PROTECTION AGENCY (EPA)</b>	Regulates environmental pollutants, including air and water pollutants from agriculture, as well as pesticide use
 <b>DEPARTMENT OF THE INTERIOR (DOI)</b>	Manages land, water resources, and fisheries
 <b>DEPARTMENT OF DEFENSE (DOD)</b>	Responsible for feeding service people and supplying food to other federal programs
 <b>DEPARTMENT OF COMMERCE (DOC)</b>	Promotes economic development; issues patents and trademarks; manages fishing in federal ocean waters; conducts climate change research and planning

	<b>DEPARTMENT OF TRANSPORTATION (DOT)</b>	Invests in transportation infrastructure, which impacts food transport
	<b>DEPARTMENT OF ENERGY (DOE)</b>	Develops energy policy that affects food production
	<b>DEPARTMENT OF HOMELAND SECURITY (DHS)</b>	Oversees some aspects of food safety and impacts farm labor through enforcement of immigration laws
	<b>DEPARTMENT OF LABOR (DOL)</b>	Develops and implements regulations related to workplace compensation, health, and safety, including in the food and agriculture sector
	<b>FEDERAL TRADE COMMISSION (FTC)</b>	Regulates food advertising and marketing
	<b>FEDERAL COMMUNICATIONS COMMISSION (FCC)</b>	Regulates food advertising
	<b>DEPARTMENT OF JUSTICE (DOJ)</b>	Enforces antitrust laws related to food and agriculture; brings criminal charges related to food safety violations
	<b>DEPARTMENT OF TREASURY</b>	Administers and enforces laws on the production, safety, and distribution of alcohol; provides financial assistance to healthy food retailers through the Healthy Food Financing Initiative
	<b>DEPARTMENT OF STATE (DOS)</b>	Provides food aid and agricultural development assistance overseas
	<b>OFFICE OF THE U.S. TRADE REPRESENTATIVE (USTR)</b>	Negotiates with foreign governments to create trade agreements, such as the North American Free Trade Agreement, Transatlantic Trade and Investment Partnership, and Trans-Pacific Partnership

At the same time, for issues such as food safety and environmental protection, the federal government often collaborates with state, local, and tribal governments to regulate the food system. For example, states and localities have primary responsibility over the regulation of some areas of the food system such as restaurants and retail food stores. In other instances, states and localities enforce federal laws, such as carrying out food facility inspections authorized under the Food Drug and Cosmetic Act,<sup>49</sup> produce safety inspections under the Food Safety Modernization Act,<sup>50</sup> or issuing permits to livestock or poultry producers to regulate water pollution under the Clean Water Act.<sup>51</sup> When federal law permits, states and localities may also require more stringent standards than federal rules. Many have done so to regulate a variety of health and nutrition issues through enacting higher school nutrition standards,<sup>52</sup> taxing sugar-sweetened beverages or other unhealthy items,<sup>53</sup> or requiring additional nutrition labeling not covered by federal law.<sup>54</sup>

Many agencies and levels of government have a hand in the U.S. food system, but with little coordination. These challenges are often exacerbated by Congress, who legislates on discrete aspects of the food system on an ad hoc basis. A few notable examples, described below, serve to demonstrate how

the lack of a coordinated, strategic approach to law and policymaking results in concrete tensions. In addition to the unintended public health, environmental and economic harms, this piecemeal approach undercuts the effectiveness of our food policies and the public's investment in our food supply.

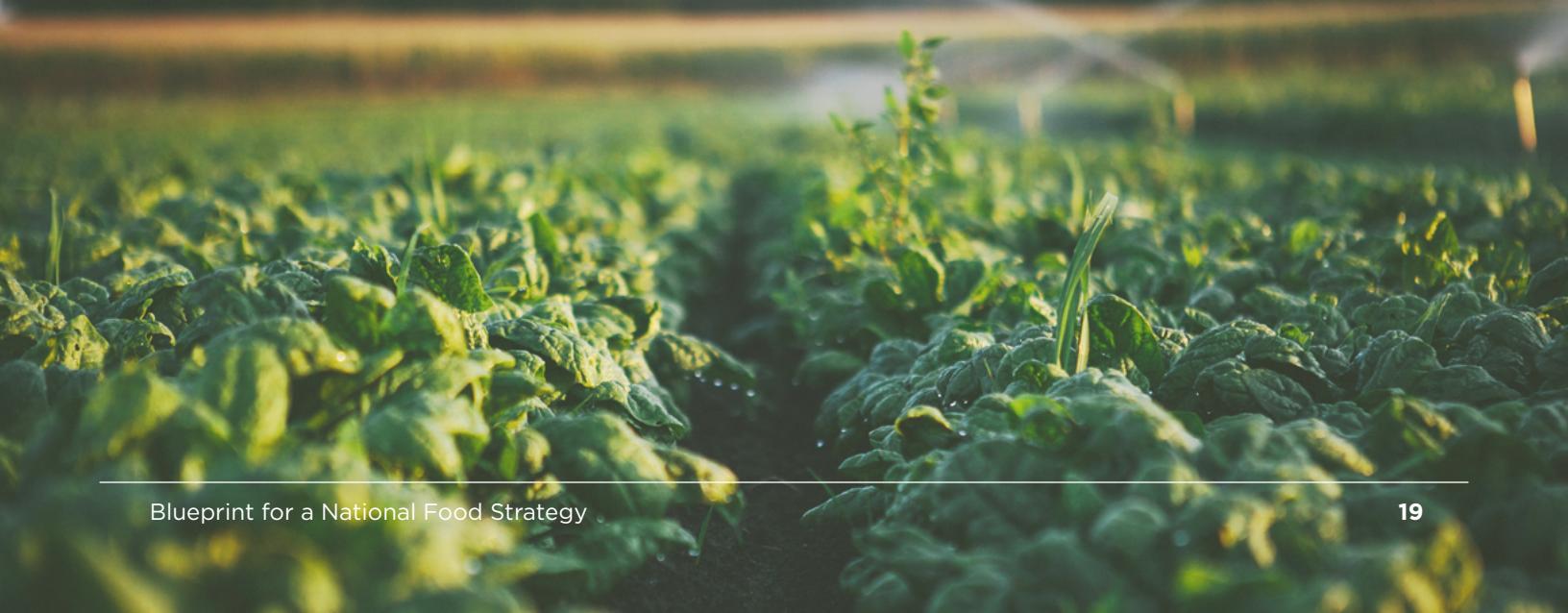
## 1. THE CLEAN WATER ACT AND THE SAFE DRINKING WATER ACT

Water plays a vital role in the food system, both because it is essential to food production and is consumed as part of the food supply. These two uses of water within the food system can be in tension, however. The federal government regulates water quality through two primary statutes: the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA).<sup>55</sup> The CWA regulates pollution in the nation's waterways, but regulation is limited to "point sources," or "any discernible, confined, and discrete" source from which pollutants are discharged, such as factories and sewage treatment plants.<sup>56</sup> However, by exempting a number of agricultural activities and Concentrated Animal Feeding Operations (CAFOs)<sup>57</sup> from the CWA's reach, Congress exempted much of agricultural production from the law.<sup>58</sup> Consequently, water pollution regulations generally do not cover farms,<sup>59</sup> despite the fact that agricultural nonpoint source pollution is the largest source of pollution in rivers and streams, and the second largest in wetlands.<sup>60</sup> At the same time, water is vital to human existence, and the SDWA requires that the EPA set enforceable standards for safe drinking water.<sup>61</sup> As nearly one-third of the pollutants regulated under the SDWA come from unregulated agricultural sources,<sup>62</sup> the CWA's exemptions undermine the purpose of the SDWA by making it difficult to ensure safe drinking water. Because public water utilities bear primary responsibility for meeting the SDWA standards, they are often left footing the bill for cleaning up expensive agricultural pollution.<sup>63</sup> Despite this apparent tension, there has been no attempt to harmonize these laws, and no mechanism to prioritize between trade-offs.



### WHAT'S YOUR PERSPECTIVE?

Can you think of additional examples where federal laws and policies affecting the food system or related to the food system are working against each other?



## 2. FEDERAL DIETARY GUIDELINES FOR AMERICANS AND THE FARM BILL

Every five years, HHS and the USDA jointly release the Dietary Guidelines for Americans.<sup>64</sup> The Dietary Guidelines not only provide nutrition recommendations for individual Americans, but they also form “the basis of federal nutrition policy and programs” and “guide local, state, and national health promotion and disease prevention initiatives.”<sup>65</sup> However, our agricultural policy fails to align with foundational guidelines for nutrition and health policy in the United States. The 2015 Dietary Guidelines emphasize the consumption of fruits and vegetables, listing them as the top two components of a healthy diet.<sup>66</sup> On the other hand, the bulk of federal subsidies for food product supports are allocated to commodity crops such as corn and soy.<sup>67</sup> Much of the corn and soy grown in the United States become ingredients in foods the Dietary Guidelines advise be consumed in moderation, namely meat, because farm animals are fed the majority of soy and nearly half of the corn crop,<sup>68</sup> and highly processed foods.<sup>69</sup> In sum, because there is no overarching national strategy for our food system, federal agencies and Congress are hampered from harmonizing goals for food production with public health.

## 3. LOCAL FOOD PRODUCTION AND THE FOOD SAFETY MODERNIZATION ACT

Federal Initiatives such as Know Your Farmer, Know Your Food, which aggregate resources and tools for local and regional food systems, support the growth of local food systems.<sup>70</sup> Likewise, federal funding that supports farm to school programs<sup>71</sup> and investments in food hubs and other infrastructure are shifting federal resources to expand local food systems.<sup>72</sup> At the same time, policy decisions by Congress and federal agencies have threatened the viability of small farms. For example, under the 2011 Food Safety Modernization Act (FSMA), which constituted the largest overhaul of the FDA’s food safety role in more than 70 years,<sup>73</sup> the FDA proposed regulations that would have required costly and burdensome compliance measures for small and mid-sized farms, in turn, severely limiting access to local foods.<sup>74</sup> While the enacting legislation provided for exemptions for small and mid-sized farms, the FDA’s initial proposed rules made it challenging for farmers to retain those exemptions.<sup>75</sup> Consequently, farmers would have had to expend significant time and money either trying to regain their exemption status or comply with the full regulations.<sup>76</sup> Due to the efforts of farm advocacy organizations and public outcry, the FDA revised the FSMA regulations to accommodate some of the needs of small and mid-sized farms.<sup>77</sup>



### WHAT'S YOUR PERSPECTIVE?

What other regulatory conflicts or gaps do you find most important to address?

When you hear National Food Strategy, what do you think of?

Can you provide other examples of law and policymaking that exemplify systems thinking and could serve as a good model?

What resources would you recommend on systems thinking?

## D. EVALUATING THE OPPORTUNITY FOR A NATIONAL FOOD STRATEGY

When considered in conjunction with pressing food system challenges, the policy misalignment discussed above presents a compelling case for both the need and opportunity for a more strategic approach. As seen in the above examples, conflicting policies create tensions between agencies, as well as between agencies and Congress. A national food strategy can create a comprehensive and streamlined mechanism to identify the key goals for the food system and coordinate the work of policymakers in achieving those goals.

To effectively address these issues, a national food strategy must foster greater coordination among the relevant federal agencies, and between those agencies and Congress. In particular, the U.S. food system would benefit from a national strategy that coordinates the relevant federal agencies and Congress in law and policymaking reflecting a set of shared policy goals, acknowledging policy tradeoffs, and recognizing the need for long-term planning. Because the food and agriculture sectors are part of a complex, interconnected system, law and policymaking models that employ lessons from “**systems thinking**” to more fully understand these relationships are particularly relevant.<sup>78</sup>

### WHAT IS SYSTEMS THINKING?

In the United States, government regularly creates laws and policies in the absence of any evaluation as to how the regulatory response might affect the entire system in which the problem exists. “Systems thinking” can help by providing a framework, and a set of planning tools, to account for the ways in which one part of a system affects other parts, and the whole. Given the complexity of the food system, systems thinking could be particularly helpful for guiding our law and policy choices. Almost all definitions of the food system include the notion that a food system comprises a food supply chain. This includes all the functions associated with producing, distributing and consuming food, the factors that influence the outcomes of those different components, and the connections that exist between them.

Problem solving that engages systems thinking involves consideration of the relationships between various components within a system that have the potential to influence one another and planning for the effects of their interactions. Systems thinking has the ability to produce long-term positive outcomes for major public health issues like obesity. Approaching that problem using systems thinking would require identifying and considering the interrelationships between the entire set of issues and factors within the food system from production to consumption that might influence obesity. In so doing, problem solvers can find patterns and unanticipated causes while also attempting to account, plan for, and prevent unintended effects. Necessarily, approaching an issue using systems thinking entails broad participation from a diverse set of stakeholders committed to listening, transparency, and problem solving, and uses a holistic or comprehensive method that requires coordination.

A move from our current regulatory approach to food in the United States does not necessarily suggest a radical transformation of the laws and policies presently in place. It does, however, require a commitment to engaging in a new way of thinking about how we regulate food as a complex system that involves interconnected components and issues. These issues cannot be addressed in isolation if the goal is to create long-term positive outcomes for the stakeholders affected by regulatory decisions.

Moreover, such outcomes are unlikely without the active engagement of the various individuals that have a stake in decisions that implicate and affect the food system. While a regulatory paradigm shift is suggestive of a complete overhaul of food law and policy in the United States, such a dramatic outcome is not inevitable. Rather, there are various mechanisms by which systems thinking can be incorporated into food law and policy decision making. Ultimately, greater strategic and mandated coordination among decision makers that entails a substantial degree of accountability will be critical to the success of such an approach.



## KATE CLANCY

Food Systems Consultant; Senior Fellow, MISA; Visiting Scholar, Center for a Livable Future, Johns Hopkins School of Public Health; Adjunct Professor, Friedman School, Tufts University

I THINK A WHOLE LOT OF PEOPLE DON'T KNOW HOW MANY TOOLS WE ALREADY HAVE. I UNDERSTAND THAT PEOPLE ARE REALLY BUSY DOING REALLY WONDERFUL THINGS. THAT MEANS THAT MOST PEOPLE ARE NOT SEEING THE BIGGER PICTURE.



## WHAT'S YOUR PERSPECTIVE?

Can you think of an example of the creation of some significant law or policy that involved a process you would find serves as a model?

What about that process do you find most beneficial or influential?

Do you think we need a national food strategy in the US?

Yes      No

Why or why not?

Importantly, a national food strategy offers an opportunity to foster greater stakeholder and public participation. Although the food system impacts numerous stakeholders, many of their voices are absent from policymaking. The FSMA example above demonstrates how the failure to engage underrepresented, yet affected, groups early on in the process both threatened the viability of local and regional food systems and resulted in a protracted and costly rulemaking process. In a system as complex and interrelated as our food system, failing to include stakeholder voices in policy development and implementation not only harms their interests, but also reduces effectiveness. Public participation can strengthen outcomes, as policy decisions are more likely to reflect stakeholders' actual needs and capabilities, thereby facilitating policy implementation and increasing accountability.

Americans' growing interest in a more coordinated, strategic approach to national food policy deserves serious attention. The next steps involve envisioning what is to be gained from a national food strategy, connecting best practices to the unique challenges posed by the food system, and identifying the policy tools already available that can be utilized in the creation of a strategy. The following sections provide greater detail regarding the means by which other countries have addressed similar issues through the creation of national food strategies, and how the United States has established national strategies to address a variety of other complex issues. These precedents offer insight into key issues related to actualizing a national food strategy for the United States, providing a blueprint to move forward.



## II. INTERNATIONAL EXAMPLES OF NATIONAL FOOD STRATEGIES

### A. INTRODUCTION

Increasingly, countries around the world are acknowledging the need to better address complex, interrelated and multi-dimensional food system issues. Since the mid-1970s, countries have engaged in the process of creating comprehensive national food **strategies** that reflect a coordinated approach to food system law and policymaking. These countries recognize the benefits associated with strategically planning and implementing laws and policies that address food system issues holistically, rather than maintaining the traditional piecemeal approach.

National food strategies take many forms,<sup>81</sup> with a few articulating a set of binding legal norms and many memorializing priorities and goals to address existing food systems issues and guide future decision-making. These strategies also respond to different substantive concerns depending on a country's particular challenges and aspirations. Whereas the strategies of developed countries typically cover a range of substantive issues,<sup>82</sup> those of developing countries are often narrower in focus.<sup>83</sup> Common to all, however, is the recognition that food system issues are multi-dimensional, complex, and interrelated, meaning that laws and policies addressing one segment of food and agriculture may result in unintended negative consequences throughout the system. National food strategies typically share the underlying goal of providing a framework that accounts for the food system holistically, whether by harmonizing existing laws and policies or setting priorities that guide the creation of new ones.

The strategies below provide examples from six different countries: Australia, Brazil, Norway, Scotland, the United Kingdom, and Wales. These strategies were selected because many of them share similar issues, challenges, and goals with the United States. Primarily, the strategies emerging from developed countries tend to include goals related to maintaining a competitive global edge in the food and agriculture sectors, in part, through sustainability measures intended to ensure food systems success and resilience. Two strategies were included because of their unique contributions – Norway's strategy represents the first attempt to connect farms, food and nutrition, while Brazil's demonstrates an unparalleled commitment to engaging the public as food and agricultural policymakers.

At the **state level** within the United States, governments, organizations and stakeholder groups have also engaged in the process of developing comprehensive food strategies for many of the same reasons countries have chosen to do so. Throughout this section, there will be references to specific state strategies in the United States, the content of which can help to inform a domestic comprehensive national food strategy.

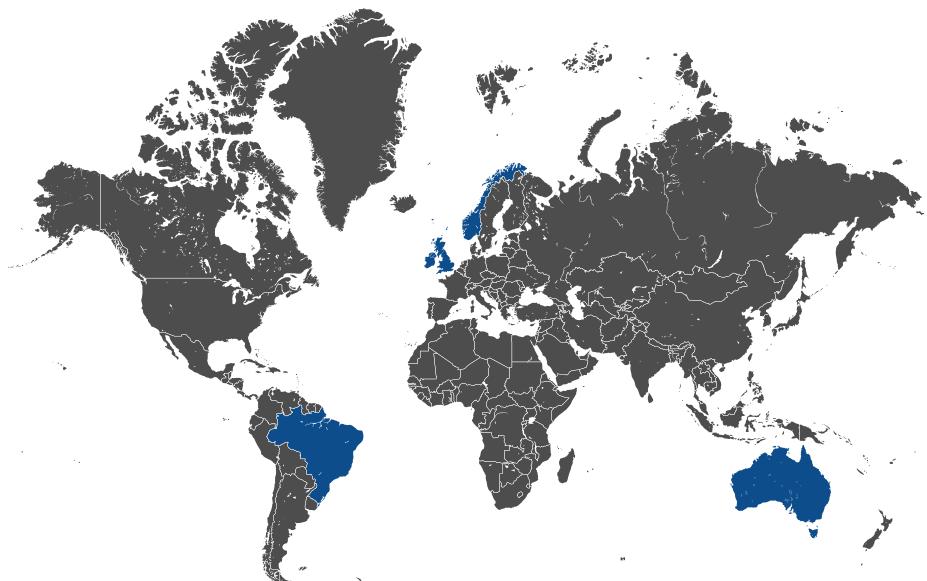
#### SO, WHAT IS A STRATEGY?

This paper uses a broad definition of "**strategy**" applying it to federal level policies, plans, laws, and directives that comprehensively address food system issues by coordinating decision making across different agencies and governmental departments.

## This Section reviews national food strategies from the following countries:

- **Australia** – The Australian government adopted its National Food Plan in 2013. The Plan was created by the country's Food Policy Working Group within the Department of Agriculture, Fisheries, and Forestry, but was shelved due to a change in administrations.
- **Brazil** – Created in 2010, Brazil's National Food and Nutrition Security Policy represents one component of a broader comprehensive system within the country to address hunger and malnutrition and implement the country's constitutionally recognized right to food. Brazil enacted a framework law on food and nutrition security and the National Food and Nutrition Security Policy creates systems to implement part of this law.<sup>84</sup> In addition, the National Food and Nutrition Security Plan, a separate document, provides specific targets, objectives and actions to carry through the systems set forth in the Policy.<sup>85</sup>
- **Norway** – In 1975, Norway adopted its first Nutrition and Food Policy. The policy was implemented through legislation and has been updated many times since its initial adoption. The Nordic Council of Ministers – specifically, the Ministers for Fisheries and Aquaculture, Agriculture, Food and Forestry and the Ministers for Health and Social Affairs – adopted the country's most recent version in 2006.<sup>86</sup>
- **Scotland** – In 2009, the Scottish Government adopted its national food strategy entitled Recipe for Success. The Food and Drink Leadership Forum and the Scottish Food Commission developed the strategy under the leadership of the Cabinet Secretary for Rural Affairs, Food, and Environment.
- **United Kingdom** – In 2010, the United Kingdom published its comprehensive national food strategy, Food 2030. This strategy was created in response to recommendations included in a government white paper entitled Food Matters. The Department of Environmental, Food, and Rural Affairs wrote Food 2030 with the approval of the Prime Minister.
- **Wales** – In 2010, the Food Policy and Strategy Unit of the Food, Fisheries, and Market Development Division of the Welsh Government adopted Food for Wales, Food From Wales. The strategy was intended to serve as a framing document for the country's other action plans related to food and farming.

*A more detailed description of each strategy can be found in Appendix A.1 - A.6*



*Countries highlighted in this report.*



### WHAT'S YOUR PERSPECTIVE?

What other international examples do you think are informative models?

This section begins by describing the factors or events that might lead a country to begin developing a national food strategy, which can range from national health and nutrition crises, to sustainability concerns, to growth of the food and agricultural sector. Second, this section considers the importance of engaging stakeholders in strategy development, outlining different roles for public engagement and mechanisms to facilitate such engagement. Finally, this section provides examples of the means by which national food strategies address key food system themes - such as public health, environmental concerns, sustainability and economic development - by setting high-level goals and identifying concrete objectives and actions.

#### Chart II:

COUNTRY	STRATEGY	AGENCIES INVOLVED	GOALS
AUSTRALIA	National Food Plan	Department of Agriculture, Fisheries, and Forestry	“Growing exports; a thriving industry; improving food security during natural disasters and for disadvantaged communities; developing a National Nutrition Policy; and sustainable food through the management of natural resources that affect food production capacity and consumption” <sup>87</sup>
BRAZIL	National Food and Nutrition Security Policy	Interministerial Chamber on Food and Nutrition Security – composed of fourteen agencies, ranging from the Ministry of Health to the Ministry of Fisheries and Aquaculture <sup>88</sup>	“Identify, analyse, disseminate and act on the factors that influence food and nutritional insecurity in Brazil; Link the programmes and actions of various sectors to respect, protect, promote and provide the human right to adequate food, considering the variety of social, cultural, environmental, ethnic-racial, equity of gender and sexual orientation, as well as provide tools for its accountability; Promote sustainable agro-ecological systems for food production and distribution that respect biodiversity and strengthen family agriculture, indigenous peoples and traditional communities, and that ensure consumption and access to adequate and healthy food, respecting the diversity of national food culture; and Include respect for food sovereignty and the guarantee of the human right to adequate food, including access to water, as a state policy, and to promote them in international negotiations and cooperation” <sup>89</sup>
NORWAY	Norwegian Govt’s Nutrition and Food Policy	Ministers for Fisheries and Aquaculture, Agriculture, Food, and Forestry and the Ministers for Health and Social Affairs	“Encourage healthy dietary habits”; “help to stabilize the world food supply”; “promote consumption of domestically produced food and strengthen the level of national food selfsufficiency”; and strengthen rural economy and stabilize population settlements in outlying areas” <sup>90</sup>

<b>SCOTLAND</b>	<b>Recipe for Success</b>	Rural Affairs, Food, and Environment	“Support the growth of our food and drink industry; build on our reputation as a land of food and drink; ensure we make healthy and sustainable choices; make our public sector an exemplar for sustainable food procurement; ensure our food supplies are secure and resilient to change; make food both available and affordable to all; and ensure that our people understand more about the food they eat” <sup>91</sup>
<b>UNITED KINGDOM</b>	<b>Food 2030</b>	Department of Environment, Food, and Rural Affairs	Consumer access to “healthy, sustainable food”; food production, processing, and distribution practices that use “natural resources sustainably,” provide ecosystem services, promote “high standards of animal health and welfare,” ensure food safety, promote rural development, and demonstrate “global leadership on food sustainability”; global and domestic food security; and a “low carbon” efficient food system <sup>92</sup>
<b>WALES</b>	<b>Food for Wales, Food from Wales</b>	Fisheries and Market Development Division	An approach to development that supports “resilience of the food system”; a system that responds to the “challenges faced by food sector businesses”; and a competitive and more profitable food sector <sup>93</sup>

## B. FACTORS DRIVING COUNTRIES TO INITIATE THE PROCESS

Countries have created national food strategies for different, yet often related, reasons. In one country, decades of work recognizing the interconnectedness of the food system resulted in a comprehensive national strategy that addressed public health challenges and a declining agricultural sector. In another country, a strategy represented a direct response to years of grassroots activism focused on persistent, chronic malnutrition and hunger. Some strategies specifically attempted to better coordinate laws and policies across sectors engaged in the food system as a means of reducing inefficiencies. Finally, a few countries developed national food strategies primarily as economic development measures to strengthen the food and agricultural sectors within regional and global markets.

A few countries developed national food strategies in response to crises. Norway, for example, adopted the world’s first “farm-food-nutrition” policy in 1975.<sup>94</sup> The strategy was largely intended to address two major crises: one chronic – high rates of cardiovascular disease within Norway itself – and one acute – a world food crisis.<sup>95</sup> Norway’s National Nutrition Council (NCC),<sup>96</sup> comprised of diverse members from the governmental, research, production, and industry sectors, was instrumental in driving creation of the strategy.<sup>97</sup> When rates of cardiovascular disease began to dramatically rise in the 1950s, the NCC commissioned a report that found a strong link between disease and diet, recommending “a joint farm-food-nutrition policy.”<sup>98</sup> However, the Norwegian Government failed to take any significant steps toward developing a strategy until the world food crisis of 1973.<sup>99</sup> This global crisis highlighted Norway’s dependence on food imports, particularly for staple crops, as well as its declining farm sector.<sup>100</sup> Consequently, the Government finally committed to a more strategic,

integrated policy approach to reform domestic food production to meet the country's own nutrition and health goals, as well as its international aid commitments.<sup>101</sup>

While myriad other countries have also experienced acute health crises attributable to high rates of diet related illness,<sup>102</sup> this concern has not been the sole motivating factor for the creation of other national food strategies. Rather, several countries – including the United Kingdom, Wales, and Australia – sought to enhance their food and agriculture sectors and saw a strategy as a means to coordinate government oversight and eliminate inefficiencies. Specifically, the United Kingdom began the process of developing its food strategy in 2008 to address a range of food system challenges, including rising and unstable global commodity prices, the environmental effects of the food system, and the impacts of diet related illness.<sup>103</sup> The Blair Administration recognized the lack of effective governmental coordination and sought to create “joined-up solutions for joined-up problems.”<sup>104</sup> The Government’s Strategy Unit,<sup>105</sup> which provided cross-departmental advice and support for policy-making, developed a white paper, Food Matters, outlining an overarching food policy framework for the country.<sup>106</sup> The paper noted that the United Kingdom already had in place many of the law and policy components required for a comprehensive food strategy – food safety systems, food-related legislation, and long-term strategies and policies addressing food systems issues such as obesity and sustainable food production – but lacked integration and coordination across the whole of government.<sup>107</sup> The paper also detailed the major challenges facing the food and agricultural sector, including a changing food culture, inefficient supply chains, increasing food prices, food safety risks, poor diet and nutrition, environmental impacts, global and national food security, and waste.<sup>108</sup> Significantly, this document laid out a vision for food policy, along with strategic policy goals and actions.<sup>109</sup>

The U.K. Government largely accepted the recommendations laid out in that paper.<sup>110</sup> Because food policy was viewed as an issue transcending the jurisdiction of a single agency, the Government recognized that a national food strategy was needed to ensure that the multiple agencies and departments with relevant expertise and authority coordinated law and policy-making efforts.<sup>111</sup> Notably, the government implemented many of the actions recommended in Food Matters prior to completion of the UK’s national food strategy, entitled Food 2030. Consequently, Food 2030, in large part, formalized a set of broad based goals to carry forward the Strategy Unit’s “vision and strategy for food.”<sup>112</sup>

Similar concerns related to a lack of coordination drove the creation of a national food strategy in Australia. In Australia, the concept of a national food policy arose from the concerted efforts of two groups, one representing the public health sector and one representing industry.<sup>113</sup> In the lead up to the 2010 Election, the Public Health Association of Australia and the Australian Food and Grocery Council separately released position papers advocating for a national food policy.<sup>114</sup> Both groups strongly advocated for an integrated or “whole of government” approach to food and agricultural policy that involved all relevant governmental bodies and addressed the environmental challenges related to food production.<sup>115</sup> These groups ultimately collaborated on a series of documents that articulated guiding principles for a strategy, successfully placing creation of a national food policy on the 2010 Election agenda.<sup>116</sup>

Wales identified a similar set of challenges inherent to its food system – volatile food prices, rising production costs, dwindling natural resources, increased waste, changing consumer preferences, and rural development.<sup>117</sup> These varied challenges suggested both a need and opportunity for market, policy and regulatory approaches to the food and agricultural sector that focused on issues beyond profits.<sup>118</sup>



## WHAT'S YOUR PERSPECTIVE?

What issues might give rise to the creation of a national food strategy in the United States?

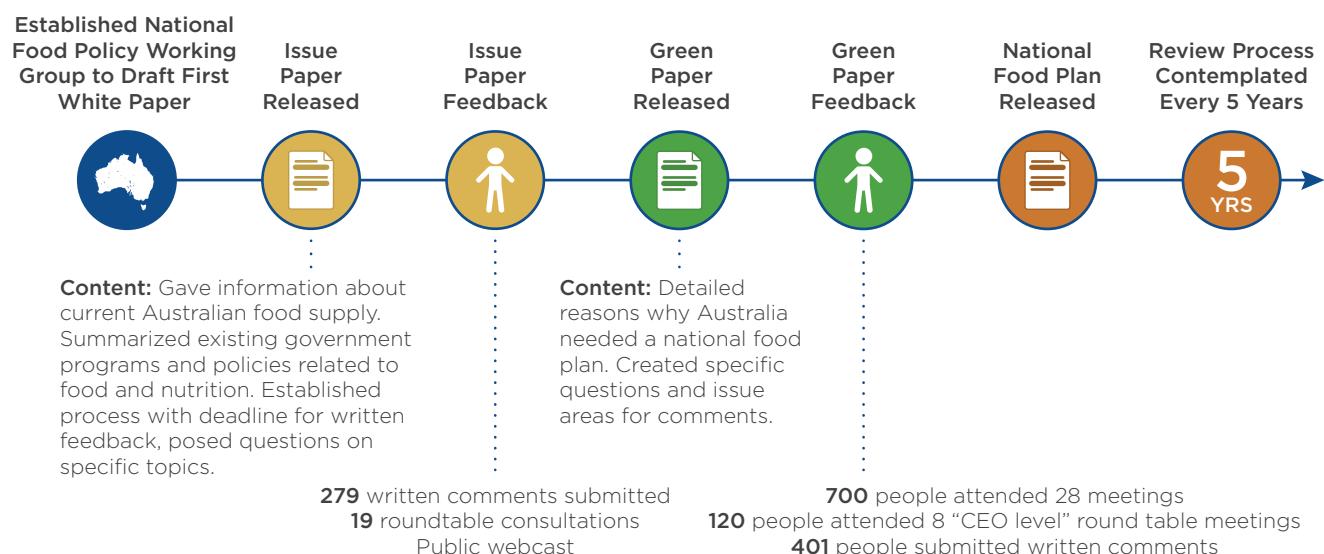
At the time it began considering a national food strategy, Wales was experiencing a significant decline in its food and agricultural work force,<sup>119</sup> in addition to substantial market competition both within the United Kingdom and externally.<sup>120</sup> The Welsh Government therefore initiated the development of its food strategy, to reflect a commitment to building a resilient food and agricultural economy that could address some of these challenges and, moreover, serve as an economic driver for the country.<sup>121</sup>

While different, but often related, factors served as the specific impetus for comprehensive national food strategies in the countries analyzed in this report, each recognized the need for integrated and coordinated law and policy-making to address food system challenges and opportunities. Given their broad scope, national food strategies require a substantial commitment of government resources, time, and coordination. Nevertheless, countries around the world have determined that the benefits of moving toward integrated decision making far outweigh the costs associated with continuing to address food system issues in a piecemeal fashion.

## C. ENGAGING STAKEHOLDERS

Each of the countries examined in this report solicited input on their strategies from food system stakeholders and the public. Generally, stakeholders across the food system – from industry groups to advocacy groups – engaged in the development process through written comments and open consultations. Additionally, many government departments temporarily established targeted working groups (also called commissions, forums, and councils) to conduct stakeholder outreach and consultation efforts, produce research, or advise the government during the creation of the strategy. These groups typically included stakeholders from across the food system.

### AUSTRALIA'S STAKEHOLDER ENGAGEMENT (Fig. 3)



## 1. INCORPORATING STAKEHOLDERS AS POLICY PARTICIPANTS

Stakeholder engagement occurs at different points during the development of a national food strategy. Most countries followed similar models of stakeholder engagement whereby the process began with the government drafting and releasing an initial discussion paper to solicit feedback on a specific set of goals and priorities. For example, as a first step toward creating its national food strategy, the Scottish Government issued a discussion paper that detailed a vision for its food system, included information on the current state of the food system, and proposed goals and action steps for various stakeholder groups.<sup>122</sup> While the discussion document laid out the Government's overall vision, it also invited stakeholders to contribute their ideas and present their challenges.<sup>123</sup> By the end of this consultation period, the Government had a "unique dataset containing opinions on the different dimensions of food sustainability from a broad range of individuals and organizations."<sup>124</sup> This consultation mechanism enabled the government to identify the priority areas most important to stakeholders.

Following this process, the Cabinet Secretary for Rural Affairs and the Environment established five "work streams" to provide specific proposals for the strategy's content.<sup>125</sup> The work streams served an advisory role; each developed a report detailing its policy recommendations on the five identified priority areas.<sup>126</sup> The Secretary also developed a high-level advisory council called the Food and Drink Leadership Forum, comprised of an appointed hand-selected group of "champions" from industry, academia, and the non-profit sector.<sup>127</sup> The Leadership Forum reviewed the work streams' reports then met with the work stream groups to debate the issues and reconcile tensions, culminating in a set of recommendations to government that formed the basis of the country's national food strategy.<sup>128</sup>

The stakeholder engagement process in Australia also involved leadership within a government department as well as the creation of a new advisory group.<sup>129</sup> The Australian Government created a National Food Plan Unit led by the Minister of Agriculture, Fisheries and Forestry to coordinate all aspects of the plan's development.<sup>130</sup> In addition, the Government developed a National Food Policy Working Group ("Working Group") to serve as a conduit between the food industry and government.<sup>131</sup> The Working Group consisted of thirteen members, ten of which came from industry.<sup>132</sup> Its composition led to a perception by some stakeholders that health, consumer, and environmental perspectives were absent from important policy conversations driving the creation of the strategy.<sup>133</sup> Additionally, many of the Working Group's meeting minutes and agendas were not made public.<sup>134</sup> Consequently, a group of civil society stakeholders became concerned about



**MOLLY ANDERSON**

William R. Kenan Jr.  
Professor of Food  
Studies at Middlebury  
College

**WE NEED A FOOD POLICY, NO QUESTION ABOUT IT. WE NEED TO HAVE THAT FOOD POLICY GROUNDED IN DEMOCRATIC GOVERNANCE... I'M IMPRESSED WITH WHAT FOLKS HAVE DONE IN SOME OTHER COUNTRIES TO PULL TOGETHER A PEOPLE-CENTERED FOOD BILL.**

U.S. state food system plans often prioritize stakeholder participation. By way of example, the Maine Food Strategy is the result of a highly collaborative effort among individuals across the food system that focuses on strengthening and building connections among broad, diverse, and sometimes conflicting groups of stakeholders to reach common goals through the identification of shared interests.





the over-representation of industry combined with the lack of transparency, and wrote a letter to politicians asking that the process be “an open and democratic [one] that reflected the concerns of all Australians.”<sup>135</sup> Many of the individuals that signed this letter formed the Australian Food Sovereignty Alliance, which ultimately developed The People’s Food Plan.<sup>136</sup>

In collaboration with various ministerial departments,<sup>137</sup> the Working Group created the first Issues Paper to solicit feedback from stakeholders on a number of questions.<sup>138</sup> The Government gathered input through roundtable discussions, written comments and a webcast.<sup>139</sup> However, because some of the roundtable discussions were by “invitation only” and public information about the roundtables was not consistently made available to the public, stakeholder groups again questioned the integrity of the process, feeling excluded from important conversations.<sup>140</sup>

Australia’s finalized 2013 National Food Plan focused on four major themes: growing exports, thriving industry, people, and sustainable food.<sup>141</sup> Despite the inclusion of objectives related to food security and sustainable food production, some stakeholders argued that private sector objectives dominated the plan and noted that over 90% of the Plan’s proposed funding was allocated to market-oriented activities.<sup>142</sup> Moreover, they felt that the plan failed to adequately address concerns about public health and sustainability.<sup>143</sup> Ultimately, these critiques inspired a grassroots movement<sup>144</sup> and the creation of the People’s Food Plan.<sup>145</sup>

## 2. INCORPORATING STAKEHOLDERS AS POLICYMAKERS

In Brazil, the public has long served an active advisory role in the development of food policy at all levels of government. Commentators have suggested that the country’s ability to achieve its food system goals is largely attributable to this rights-based, participatory approach, and the partnership between government and civil society.<sup>146</sup>

The country established its National Food and Nutrition Security Policy in 2010 as a mechanism within a broader food and nutrition security system<sup>147</sup> to implement its constitutionally recognized **Right to Food**.<sup>148</sup> The country’s National Council on Food and Nutrition Security played an active role in developing the Policy.<sup>149</sup> Brazil utilizes Councils on Food and Nutrition Security at every level of government, which embody the partnership between civil society and government: 2/3 of



In developing their national food strategies, other countries have recognized the benefit of trying to harmonize and coordinate the different laws and policies related to the food system. By way of example, **Australia** included in its National Food Plan the following chart of specific policies organized by policy area.

POLICY AREA	POLICY
OVERALL POLICIES	<ul style="list-style-type: none"><li>• 'Australia in the Asian Century White Paper'</li><li>• Competition and consumer policy</li><li>• Fiscal and monetary policy</li><li>• Tax policy</li></ul>
AGRICULTURE AND FISHERIES	<ul style="list-style-type: none"><li>• Agricultural and veterinary chemical policy</li><li>• Biosecurity policy</li><li>• Commonwealth fisheries harvest strategy: policy and guidelines</li><li>• Commonwealth policy on fisheries bycatch</li><li>• Rural research and development policy statement</li></ul>
EDUCATION, LABOUR AND SKILLS	<ul style="list-style-type: none"><li>• Australian Curriculum</li><li>• Fair Work Act 2009</li><li>• Skills policy</li></ul>
ENVIRONMENT, CLIMATE CHANGE AND ENERGY	<ul style="list-style-type: none"><li>• Clean Energy Future Plan</li><li>• 'Energy White Paper 2012'</li><li>• Murray-Darling Basin Plan</li><li>• 'National waste policy: less waste, more resources'</li><li>• National Water Initiative</li><li>• 'Sustainable Australia, sustainable communities: a sustainable population strategy for Australia'</li></ul>
HEALTH AND AGEING	<ul style="list-style-type: none"><li>• Australian Dietary Guidelines</li><li>• Government response to 'Labelling logic: review of food labelling law and policy'</li><li>• National Nutrition Policy (to be released in 2014)</li><li>• National Partnership Agreement on Preventive Health</li><li>• 'Taking preventative action – a response to Australia: the healthiest country by 2020'</li></ul>
INDUSTRY, INNOVATION, SCIENCE, RESEARCH AND TERTIARY EDUCATION	<ul style="list-style-type: none"><li>• 'A plan for Australian jobs: the Australian Government's industry and innovation statement'</li><li>• Government response to 'Food Processing Industry Strategy Group: final report of the non-government members'</li><li>• Food industry innovation precinct National Research Investment Plan</li></ul>
INFRASTRUCTURE, TRANSPORT AND EMERGENCY MANAGEMENT	<ul style="list-style-type: none"><li>• Critical infrastructure resilience strategy</li><li>• Draft National Land Freight Strategy</li><li>• Infrastructure Australia</li><li>• 'National ports strategy: infrastructure for an economically, socially, and environmentally sustainable future'</li><li>• National Urban Policy</li></ul>
REGIONAL AUSTRALIA	<ul style="list-style-type: none"><li>• Regional policy</li></ul>
SOCIAL DISADVANTAGE	<ul style="list-style-type: none"><li>• National Indigenous Reform Agreement – Closing the Gap</li><li>• Social Inclusion Agenda</li><li>• 'The road home: a national approach to reducing homelessness'</li><li>• Welfare and income support policy</li></ul>
TRADE AND FOREIGN AID	<ul style="list-style-type: none"><li>• Foreign aid policy</li><li>• 'Gillard Government trade policy statement: trading our way to more jobs and prosperity'</li></ul>

[Australia: National Food Plan](#)

members are from civil society<sup>150</sup> and 1/3 are from various government ministries.<sup>151</sup> The National Council, which is the federal level food policy council, provides advice to the President regarding the development, monitoring, and implementation of various programs and policies under the National Food and Nutrition Security Policy.<sup>152</sup> The plenary body of the National Council represents its highest level, consists of all members, and typically meets every two months<sup>153</sup> Additionally, the President of the National Council is a chosen member of the public, and observer organizations have the ability to speak and participate in the Council's debates.<sup>154</sup>

Given civil society's strong representation in the councils, capacity building and education have been critical to ensure the public's effective participation in policy making.<sup>155</sup> Members of the public often place pressure on the civil society members of the National Council, proposing their own policies during regular consultations with council members.<sup>156</sup> The Council's proposals, therefore, reflect "the aspirations of society," giving them greater support and weight.<sup>157</sup>

Brazil's National Food and Nutrition Security Policy includes measures for continued stakeholder participation in the development, monitoring, and frequent reassessment of the Policy's programs.<sup>158</sup> Such ongoing engagement promotes transparency and accountability, and ensures that the Policy will reflect current needs while continuing to evolve.<sup>159</sup> Brazil's experience demonstrates that the process of developing a national food strategy need not fall solely to the government; rather, civil society can play a substantial role by raising concerns, proposing solutions and programs, and monitoring and evaluating the strategy on an ongoing basis.<sup>160</sup>

## D. STRATEGIC OBJECTIVES

National food strategies generally address four thematic areas:



### SUSTAINABILITY, CLIMATE CHANGE, AND FOOD SYSTEM RESILIENCE



### ECONOMIC DEVELOPMENT



### HEALTH AND NUTRITION



### FOOD ACCESS AND FOOD SECURITY

Depending on the specific goals of the drafters, one area may be prioritized or receive more attention within the strategy. However, most strategies acknowledge that each of these areas is inherent to the food system and reflect an understanding that addressing one may somehow impact the others.



## WHAT'S YOUR PERSPECTIVE?

Do you think the US should adopt a constitutional right to food?

Yes      No

What do you think that would mean?

Health and nutrition are the focus of many state level food strategies within the United States. [The Minnesota Food Charter](#) emphasizes access to healthy, safe and affordable food as a means of improving health outcomes while also saving resources and stimulating economic growth. The Charter was developed in response to diet related disease and decreased productivity, but places a strong emphasis on how addressing those issues can support the economy, the environment, and the overall wellbeing of citizens in Minnesota.

## 1. HEALTH AND NUTRITION

Improved health and nutrition serves as a top priority for some strategies, but appears in all the national food strategies examined in this report. This is, in part, because these countries are facing high rates of obesity and diet-related disease. Often, improving public health and nutrition is framed as critical for reversing these trends. Two strategies, those of Brazil and Norway, are dedicated to health and nutrition and one, from the United Kingdom, highlights reducing diet-related disease and obesity as a concrete goal. In some instances, however, health and nutrition is framed as an issue of consumer freedom reflecting the notion that consumers should have access to nutritious and healthy food if they so demand.<sup>161</sup>

Brazil's National Food and Nutrition Security Policy takes a comprehensive view of health and nutrition, calling for consideration of all factors – societal, political, cultural, etc. – that influence diet. The Policy seeks to empower consumers and simultaneously curb practices that facilitate poor consumer choices. The Policy promotes a number of food and health objectives, including food access, food and nutrition education, support for indigenous and traditional populations, and incorporating food and nutrition security at all levels of health care.<sup>162</sup> In March 2016, the National Council began discussions around the Second National Plan for Food and Nutrition Security, which lays out the specific goals and initiatives developed by the Ministry of Health and other departments<sup>163</sup> to implement the directives in the National Food and Nutrition Security Policy.<sup>164</sup> The major areas of emphasis for the second plan include obesity reduction, addressing food and nutrition insecurity for specific populations, and increasing access to healthy food.<sup>165</sup>



THIS STRATEGY EMPHASIZES  
THE PRODUCTION AND  
DEVELOPMENT OF FOOD THAT  
CONTRIBUTES TO A HEALTHY  
BALANCED DIET, TO IMPROVE  
THE WELL BEING OF OUR  
PEOPLE.

-WALES

### FACILITATING GREATER COORDINATION ACROSS THEMATIC AREAS: WALES

While this sub-section focuses on how existing food strategies address a variety of specific, thematic areas within the food system, it is also important to understand how strategies facilitate greater coordination across these areas. Wales's strategy, Food for Wales, Food from Wales, offers a noteworthy example as its primary theme is “building connections and capacities” across the food system’s component parts. Moreover, it does not shy away from the inherent conflicts that exist between these parts, and the likelihood for additional tensions to arise as it promotes more collaborative efforts going forward; rather, one of the strategy’s key findings is “where some of our aspirations conflict, we must acknowledge this openly.”<sup>192</sup> The strategy addressed the unique roles of a variety of key actors and stakeholders – government, industry, consumers, etc. – and the ways in which each can “more explicit[ly] integrat[e]” a holistic understanding of the food system.<sup>193</sup> The strategy also attempted to build on the work that Wales had already done, cataloguing some of Wales’ existing policies – such as its sustainable development policy, rural development plan, and public health strategy – and asserting the need to “create synergies” among these policies, as well as future policies relevant to food.<sup>194</sup> In addition, the strategy highlighted opportunities for public engagement and ways to work with local authorities to further embed integration efforts.<sup>195</sup>



WHILE FOOD CAN BE AN IMPORTANT ELEMENT IN MANY ISSUES, THE ROLE OF THE NATIONAL FOOD PLAN IS NOT TO SOLVE EVERY CHALLENGE WITH SOME CONNECTION TO FOOD. ITS ROLE IS LIMITED TO ENSURING THAT AUSTRALIA HAS A SUSTAINABLE, GLOBALLY COMPETITIVE AND RESILIENT FOOD SUPPLY THAT SUPPORTS ACCESS TO NUTRITIOUS AND AFFORDABLE FOOD.

**-AUSTRALIA**

*Threats to the food system posed by climate change are emphasized in many food strategies at the state level within the United States. Both the [Vermont Farm to Plate Strategic Plan](#) and the [Massachusetts Local Food Action Plan](#) recognize the need to support farmers in adapting to climate change while at the same time mitigating the impacts presented by food and agricultural production and waste.*



## 2. SUSTAINABILITY, CLIMATE CHANGE, AND FOOD SYSTEM RESILIENCE

Sustainability is featured prominently in a number of strategies, particularly those of Wales, the United Kingdom, and Australia. Because the term “sustainability” itself encompasses such a vast range of issues, the focus on sustainability assumes a different meaning within each strategy. Most proceed from the premise that the food system produces adverse ecological and environmental impacts, which can be problematic, but more importantly, threaten the viability of the food system.<sup>166</sup>

These strategies considered the means by which to: 1) better understand the food system’s current ecological and environmental impacts, in the short and long term; 2) invest in research and development of new technologies to use resources more efficiently; 3) reduce ecological and environmental impacts; and 4) build systems to adapt to a changing climate. In addition, these strategies recognized that an emphasis on sustainability likely requires a significant paradigm shift. While the United Kingdom proposed placing a financial value on natural resources that the food system currently uses for “free,”<sup>167</sup> Australia committed to investing in a number of sustainability initiatives focused on soil health, water, greenhouse gas emissions and food waste, with price tags ranging from \$44 million to \$15 billion.<sup>168</sup>

Overall, sustainable development is foundational to Wales’ strategy. Wales defined sustainable development within this context as “the provision of safe, affordable, healthy food . . . [through] a food system that produces positive social benefits whilst imposing the lowest possible environmental impacts.”<sup>169</sup> While the entire strategy is focused on different dimensions of sustainability, the strategy also included a specific subsection on sustainability that enumerated existing sustainability policies – including Wales’ Climate Change Strategy, One Planet Strategy, Green Jobs Strategy, Towards Zero Waste strategy, the United Kingdom’s Low Carbon Transition Plan, and the European Union’s Thematic Strategy for Soil Protection – and discussed their relevance with regard to broader food system goals.<sup>170</sup> For example, the strategy noted that agriculture contributes to 11% of Wales’ total greenhouse gas emissions (GHG), with manufacture, transport, and retail contributing an additional 5.5%; however, it referenced the targets for these sectors outlined in Wales’ Climate Change Strategy, which aimed to achieve an annual overall reduction of 3% in GHG emissions.<sup>171</sup>



THIS STRATEGY IS A RESPONSE BOTH TO THE BIG FOOD CHALLENGES – SUSTAINABILITY, SECURITY AND HEALTH – AND TO THE CALL FOR MORE JOINED UP FOOD POLICY.

**-UK**

The United Kingdom's national food strategy also specifically referenced a number of preexisting sustainability strategies, many of which are the same as those mentioned in Wales' strategy. However, unlike the Welsh strategy, the United Kingdom's strategy laid out a set of specific actions for a range of key actors, including consumers, farmers (particularly livestock producers), and retailers.<sup>172</sup> For example, the strategy identified the potential for consumers to demand information about the climate impacts of their food and, conversely, for manufacturers, distributors, and retailers to share such information and develop energy-efficient innovations.<sup>173</sup> Because of its relatively significant contribution to the United Kingdom's GHG emissions, livestock production received special attention in the strategy, which sought to provide better information to consumers about meat consumption and encourage producers to mitigate GHG emissions.<sup>174</sup> Importantly, the strategy also recognized that sustainability necessarily involves important tradeoffs – for example, as between climate change mitigation and increased food production – and that those need to be identified and addressed.<sup>175</sup>



**IT IS THE GOAL OF THE NATIONAL POLICY FOR FOOD AND NUTRITION SECURITY... TO ENSURE THE HUMAN RIGHT TO ADEQUATE FOOD THROUGHOUT THE COUNTRY.**

**-BRAZIL**

### 3. FOOD ACCESS AND FOOD SECURITY

The issue of increased access to food – and, in particular, healthy food – appears frequently in national food strategies, but is less likely to be named as a major, or even explicit, priority. Because access encompasses a number of factors – including safety, nutritional quality, price, and geography – strategies often addressed these factors separately. Strategies also tend to reflect the unique circumstances of each country – while Australia's food is some of the most affordable in the world,<sup>176</sup> the United Kingdom's food prices have been declining overall, but the price of vegetables, relative to other foods, has increased.<sup>177</sup> However, most strategies have acknowledged that global markets and the changing climate threaten to increase food prices.<sup>178</sup> Some strategies also addressed efforts to promote global food security, whether through exports or technical assistance.<sup>179</sup>

Australia's strategy illustrates the relevance of food access and food security in a country that already produced enough food to feed itself, and then some. Australia's primary food security goal related to "maintaining food security" in the country, while "reducing food insecurity" is included as a sub-goal.<sup>180</sup> This sub-goal acknowledged that "the problems that result in food insecurity are complex and the solutions are not simple," and identified a number of factors – and the ways in which they interact – as contributing to food insecurity.<sup>181</sup> As many of these factors relate to issues associated with poverty and social exclusion, the sub-goal reflected the Australian Government's broader strategy to reduce social disadvantage, and some of its component parts.<sup>182</sup> The Australian strategy also dedicated an entire section to global food security. The goals included in that section sought to leverage Australia's research capacity and agricultural expertise to support developing countries, particularly those in the same region.<sup>183</sup>

## 4. ECONOMIC DEVELOPMENT

For many countries, maintaining and growing the food and agriculture sectors is included either as a standalone goal, or as critical to the achievement of other goals, such as resiliency. The challenges and opportunities identified by each country will be different – whether increasing yields, opening new markets for trade, improving food safety, or strengthening the workforce. For most developed countries, strengthening the food and agriculture sectors is less focused on meeting the needs and preferences of the country's own population, and more on growing the gross domestic product through tourism and exports.

Scotland's strategy, for example, attempted to build on the country's brand as a "land for food and drink" and optimize opportunities for growth.<sup>184</sup> The strategy called for investing in a variety of initiatives to highlight Scottish food and drink within the tourism industry, including the development of a separate food and drink tourism strategy and investment in a website and public relations campaign.<sup>185</sup> The strategy committed government to work with Scotland Food and Drink, an industry-led group, to achieve its annual sales goal for the country's entire food and drink industry.<sup>186</sup>

Australia's strategy dedicated one of its five overarching goals to growing food exports as a means of seizing on population and income growth in the region.<sup>187</sup> Sub-goals in the strategy included trade liberalization and reduced market barriers; building business-to-business relationships; facilitating export opportunities; and developing Australia's brand.<sup>188</sup> By 2025, Australia sought to increase the value of agriculture and food-related exports by 45%.<sup>189</sup> The strategy also outlined a number of preexisting strategies and initiatives – such as the Asian Century Business Engagement Plan and Plan for Australian Jobs – to help achieve this goal.<sup>190</sup> In addition, the strategy announced new initiatives, such as a \$28.5 million Asian Food Markets Research Fund and a Food and Beverage Supplier Advocate position to encourage business-to-business links.<sup>191</sup>



THE AIM OF SCOTLAND'S FIRST NATIONAL FOOD AND DRINK POLICY IS TO PROMOTE SCOTLAND'S SUSTAINABLE AND ECONOMIC GROWTH BY ENSURING THAT THE SCOTTISH GOVERNMENT'S FOCUS IN RELATION TO FOOD AND DRINK, AND IN PARTICULAR OUR WORK WITH SCOTLAND'S FOOD AND DRINK INDUSTRY, ADDRESSES QUALITY, HEALTH AND WELLBEING, AND ENVIRONMENTAL SUSTAINABILITY, RECOGNIZING THE NEED FOR ACCESS AND AFFORDABILITY AT THE SAME TIME.

**-SCOTLAND**



**Economic development** is consistently featured as a shared goal for states seeking to strategically and comprehensively address their food systems issues. Many state strategies include measures to support food and agricultural skills development, provide incentives for sustainable food and agricultural production, and reduce production and market barriers for those engaged in the food and farming sectors.

## E. CONCLUSION

Around the world, countries have taken the bold step of developing comprehensive national food strategies, addressing their food system challenges by creating goals, prioritizing among them, and balancing tradeoffs. The experiences of other countries that have developed national food strategies demonstrate the promise of a national food strategy to address complex food systems issues in a coordinated manner. Moreover, a national food strategy can provide the opportunity for meaningful stakeholder engagement. While countries' food systems vary on some levels, they share a greater degree of similarity in the sense that all contend with similar issues related to resilience, economic development, and health and nutrition. Acknowledging that it is hard to predict the ways in which the food system will change, some countries have established methods to **revisit, revise, and recalibrate** their strategies as needs and priorities change. Ultimately, these national food strategies provide a careful and considered method to guide future law and policy-making to reduce inefficiencies and enhance the food and agricultural sectors.



### WHAT'S YOUR PERSPECTIVE?

What objectives would you prioritize if the United States were to develop a national food strategy?

### PROCESS FOR REVISION AND UPDATES

Because many of these strategies acknowledge their imperfections and the fact that changes to the food system may result in unpredictable outcomes, some have built in to policy the ability to revisit, revise, and recalibrate the strategy as needs and priorities change. In this way, these strategies create a road ahead for the food system improvements suited to systems-based policy change, embracing flexibility, nuance, and refinement over time.

By way of example, because of the many comments received on the different iterations of Scotland's proposed plans, the government recognized the need to continue stakeholders engagement to achieve long-term success after the release of the first strategy, which led to additional and ongoing consultation processes.



# III. U.S. NATIONAL STRATEGIES

## A. INTRODUCTION

While the United States does not presently have a national food strategy, it does have numerous national strategies that guide planning and execution for a range of issues. The national strategy mechanisms used in the United States illustrate the tools available to actualize a national food strategy. This section discusses a range of current or completed strategies implemented in the United States. Some of the coordinated strategies discussed in this section may not include the word “strategy” in their titles, but they nevertheless serve the same important functions and employ some of the same mechanisms. Comprehensive coordinated strategies have been created by both the President, via executive orders, and Congress, via legislation, and championed by Republicans and Democrats alike. Recent strategies have addressed everything from opioid addiction<sup>196</sup> to cyber security.<sup>197</sup>

Concerns related to the food system share many of the same characteristics as the issues addressed by these other national strategies. Like many of these issues, the food system does not have a unified, clearly defined home within the federal regulatory framework. Further, while food production is an issue of national concern, the needs and priorities of the U.S. food system have never been clearly articulated. However, the food system in the United States encompasses a vast array of interests and perspectives, posing precisely the type of regulatory challenge that tends to spur the creation of a national strategy.

This section draws on examples from eight U.S. strategies to highlight common features and key differences that could inform the creation of a coordinated national food strategy. The strategies discussed in this section were selected from an initial review of over 30 previous and existing strategies.<sup>198</sup> Strategies were selected primarily for their topical relevance: four address human health, including significant health threats,<sup>199</sup> and three concern the environment.<sup>200</sup> In addition, some strategies were selected to highlight unique, and potentially relevant, mechanisms. For example, the 9/11 Commission<sup>201</sup> shows how addressing a high profile, bipartisan issue can result in a congressionally created commission, while the National Environmental Policy Act<sup>202</sup> demonstrates that a national policy can be established through a procedural mandate. The section reviews the following coordinated policies:

- **National Health Security Strategy** – Congress established this strategy legislatively via passage of the Pandemic and All Hazards Preparedness Act in 2006. The strategy aims to mitigate the impact of disasters and emergencies on human health. It is prepared by the Department of Health and Human Services and revised every four years.
- **National Quality Strategy** – Congress established this strategy legislatively through passage of the Affordable Care Act in 2010. The strategy aims to raise the standard of national health care, and it considers health care delivery as well as individual and population-based health outcomes. The Interagency Working Group on Healthcare Quality oversees the design and implementation of this strategy.

- **National Strategy for Combating Antibiotic-Resistant Bacteria** – President Obama established this strategy through an executive order in 2014. It aims to mitigate the risk posed by antibiotic-resistant bacteria by improving surveillance and detection, and also investing in research. The strategy spans three separate groups: the President’s Council of Advisors on Science and Technology, a preexisting advisory council, wrote the report that served as the basis of the strategy; the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria provides advice from experts outside of government; and the Task Force for Combating Antibiotic-Resistant Bacteria coordinates across federal agencies.
- **National Strategy for HIV/AIDS** – President Obama established this strategy through an executive order in 2010, with support from the Office of National AIDS Policy (ONAP). The strategy aims to reduce the incidence of HIV/AIDS and increase access to care. While ONAP oversaw the creation and recent update of the strategy, the President’s Advisory Council on HIV/AIDS also guides the Office.
- **President’s Climate Action Plan** – President Obama established this strategy through an executive order in 2013. The strategy aims to reduce overall GHG emissions and establish the United States as a global leader in responding to climate change.
- **National Commission on Terrorist Attacks Upon the United States (“9/11 Commission”)** – Congress established this strategy with the passage of the Intelligence Authorization Act in 2003. The strategy assembled a high profile, bipartisan commission to report on the events and decisions that led to 9/11 and make recommendations to prevent future attacks.
- **Interagency Working Group on Environmental Justice** – President Clinton established this strategy through an executive order in 1994. It aims to address health and environmental disparities in low-income and minority communities. While the Interagency Working Group coordinates across federal agencies, each agency also drafts its own environmental justice strategy.
- **National Environmental Policy Act (NEPA)** – Congress enacted this procedural law in 1970 to reduce conflict among agencies and promote awareness of environmental concerns. Overseen by the Council on Environmental Quality, NEPA requires that all agencies submit a “detailed statement” about potential environmental impacts when they seek to implement any “major federal action.”

*A more detailed description of each strategy can be found in Appendix B.1-B.8.<sup>203</sup>*

This section follows the process of creating a national strategy, as drawn from research on the eight selected strategies. Each stage offers unique opportunities for shaping a strategy and ensuring its overall effectiveness. This section begins by examining the impetus for various coordinated strategies. While the impetus is sometimes a single, high-profile crisis, it may also involve significant grassroots activism or the release of a significant report. Once an issue rises to the level of national concern, the President or Congress calls for the creation of a coordinated strategy. An enacting authority – whether a statute, executive order, or presidential memorandum – establishes the strategy, shaping its design and durability, and potentially influencing public perception of the issue. Often, an enacting document names an office or council specifically responsible for the creation of a written strategy. Most strategies have an organizing authority, which may be a single office within the executive branch, a working group made up of various agency officials, or an advisory council made up of experts and leaders outside of government. Often, the organizing authority gathers information through a variety of means and from a variety of sources, including soliciting comments from the general public, in order to develop the priorities or goals of the strategy. This information then informs the written strategy document, which determines the goals of the strategy and establishes the principles and procedures to be used to achieve those goals. Finally, a coordinated strategy promotes accountability

and remains up-to-date through ongoing reporting. Some strategies even require periodic updates of the entire strategy document.

In a different vein, this section also examines the means by which a procedural mandate can set requirements for agencies when their actions touch on specific policy areas, such as the environment. While a procedural mandate does not dictate what an agency can and cannot do, it can mandate an agency to follow certain processes or report on specific findings. That additional information may affect an agency's ultimate decision. However, unlike other strategy mechanisms, a procedural law generally does not require that agencies take active steps to reform past policies or decisions; instead, the procedural requirement applies to future decision making.

*The basic features of the strategies discussed in this section are presented in the table below.*

NAME	ENACTING AUTHORITY	ORGANIZING AUTHORITY	PURPOSE
<b>THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES ("9/11 COMMISSION")</b>	Legislation - Intelligence Authorization Act <sup>204</sup>	Bi-Partisan Congressional Commission	Provided "findings, conclusions, and recommendations" on the terrorism threat in order to establish recommendations that can guard against future terrorist attacks. <sup>205</sup>
<b>NATIONAL HEALTH SECURITY STRATEGY</b>	Legislation - Pandemic and All-Hazards Preparedness Act <sup>206</sup>	Assistant Secretary for Preparedness and Response; Department of Health and Human Services	Aims to safeguard people from the health consequences of significant events or threats, such as adverse weather events, disease outbreaks, or human attacks. <sup>207</sup>
<b>NATIONAL QUALITY STRATEGY</b>	Legislation – Patient Protection And Affordable Care Act <sup>208</sup>	Interagency Working Group on Healthcare Quality	Includes priorities to improve the delivery of health care services, patient health outcomes, and population health. <sup>209</sup>
<b>NATIONAL STRATEGY FOR COMBATING ANTIBIOTIC-RESISTANT BACTERIA</b>	Executive Order <sup>210</sup>	Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria; President's Council of Advisors on Science and Technology; Task Force for Combating Antibiotic-Resistant Bacteria <sup>211</sup>	Strives to help the United States attain the goals of preventing, detecting, and controlling resistant bacteria through acceleration of research, monitoring, and collaboration efforts across federal and international agencies. <sup>212</sup>

<b>PRESIDENT'S CLIMATE ACTION PLAN</b>	Compilation of Executive Orders <sup>213</sup>	Environmental Protection Agency, Department of Energy, Department of Transportation, among others	Set of presidential memoranda, procurement and permitting regulations, and executive orders related to climate change and tied together by an overall emissions reduction goal. <sup>214</sup>
<b>INTERAGENCY WORKING GROUP ON ENVIRONMENTAL JUSTICE</b>	Executive Order <sup>215</sup>	Multi-Agency Working Group, with the EPA as the lead agency	Coordinates agencies to address the health and environmental welfare of low-income and minority communities, particularly in the enforcement of health and environmental protections in impoverished areas. <sup>216</sup>
<b>NATIONAL HIV/AIDS STRATEGY</b>	Executive Orders <sup>217</sup>	The Office of National AIDS Policy; President's Advisory Council on HIV/AIDS	Incorporates input from stakeholders ranging from the public <sup>218</sup> to the Presidential Advisory Committee on HIV/AIDS in order to reduce HIV incidence, increase access to care, and reduce HIV-related disparities. <sup>219</sup>
<b>NATIONAL ENVIRONMENTAL POLICY ACT</b>	Legislation – National Environmental Policy Act <sup>220</sup>	Council on Environmental Quality <sup>221</sup>	Requires an agency to submit a “detailed statement” about potential environmental impacts whenever it seeks to implement any “major federal action.” <sup>222</sup>

## B. IMPETUS

The issues that catalyze the creation of coordinated national strategies tend to share a few key characteristics: their complexity calls for the expertise and authority of multiple agencies, and they require coordinated action among federal agencies, or even among federal, state, local, and tribal governments. Yet, the specific motivations for strategies differ – some are implemented after a national crisis whereas others are responsive to impending environmental or economic concerns.

Mobilizing the federal government to take action on a complex, diffuse issue can be difficult, and it sometimes takes a national crisis to demonstrate the need for strategic action. High-level commissions were established after Pearl Harbor, the assassination of John F. Kennedy, and the space shuttle disasters.<sup>220</sup> More recently, Congress established the 9/11 Commission following the terrorist attacks of September 11, 2001.<sup>221</sup> The mandate of such commissions is typically twofold: first, determine the events and failures that led up to the disaster and, second, provide recommendations to guard against similar crises in the future.<sup>222</sup> Sometimes, a series of crises reveals recurring gaps in the federal framework – for example, the National Health Security Strategy responded to a set of interrelated concerns following 9/11, Hurricanes Katrina and Rita, and the avian flu outbreak.<sup>223</sup>

## **EXISTING FEDERAL FOOD-RELATED COORDINATION MECHANISMS**

At the federal level, there have been efforts to achieve greater coordination around critical, food-related issues. These efforts have not been nearly as broad as a potential national food strategy and, ultimately, have fallen short. The challenges they have encountered further illustrate the need for broad-based, transparent mechanisms. Two more recent examples, dealing with food safety and genetically-engineered foods, are particularly illustrative in this regard:

### **COORDINATED FRAMEWORK FOR REGULATION OF BIOTECHNOLOGY**

Effective regulation of biotechnology – including genetically-engineered plants – has long challenged the federal government. For over thirty years, the Coordinated Framework for Regulation of Biotechnology<sup>224</sup> has guided the federal government’s approach to determining the safety of biotechnology products.<sup>225</sup> The Framework allocates responsibility among the three key regulatory agencies – the EPA, FDA, and USDA – and establishes overarching principles to guide regulation across all agencies.<sup>226</sup> However, the Coordinated Framework has often led to more confusion than coordination.<sup>227</sup> It did not establish any new rules or centralized mechanisms, such as an advisory committee or interagency working groups. Instead, its broad delegation of authority among the EPA, FDA, and USDA left huge gaps where the jurisdiction of each agency was unclear, and these have only widened as the laws and regulations establishing each agency’s authority have evolved.<sup>228</sup> Created in 1986 and updated in 1992, the Coordinated Framework has also failed to keep pace with changes in science and technology.<sup>229</sup> Finally, amid growing consumer distrust of genetically-engineered crops and food products, the Coordinated Framework is not readily accessible for consumers, furthering distrust.<sup>230</sup>

Recognizing these challenges, the Obama Administration established a multi-agency task force to propose changes to the Coordinated Framework<sup>231</sup> and the task force released its plan in September, 2016.<sup>232</sup>

### **FOOD SAFETY WORKING GROUP**

President Obama established the Food Safety Working Group in 2009 in order to achieve greater coordination and provide a forum by which the different agencies engaged in food safety regulation could come together and develop a set of shared goals.<sup>233</sup> The Group met for three years and then dissolved, as agency officials suggested it was no longer necessary due to the existence of other collaborative mechanisms.<sup>234</sup> However, these existing mechanisms were focused on discrete issues and, as described by a U.S. Government Accountability Office (GAO) report, failed to provide opportunities for “broad-based, centralized collaboration” and goal setting.<sup>235</sup> In addition, absent a centralized interagency working group, the various food safety agencies were not assessing their individual programs in relation to the others’ and evaluating how they were, collectively, meeting – or falling short of – overarching food safety goals.<sup>236</sup>

Other strategies attempt to address an impending threat before the occurrence of a more acute crisis. In some instances, a coordinated strategy is designed to prevent and mitigate a known threat, such as climate change.<sup>237</sup> If the full extent of the threat is unknown, a strategy can also serve as a clarion call for collecting more information and advancing research. The National Strategy for Combating Antibiotic Resistance, for example, followed from the first-ever national assessment of the burdens and threat posed by antibiotic-resistant bacteria.<sup>238</sup> Each of the Strategy’s five goals references the need for improved surveillance, detection, and research.<sup>239</sup>

The National Environmental Policy Act (NEPA) demonstrates how discordant agency activities can serve as a rallying cry for congressional action. By the late 1960s, it was apparent that there was little



space for effective environmental policy-making at the federal level because “conflicting priorities . . . worked at cross-purposes, resulting in interagency conflict and waste of effort and public money.”<sup>240</sup> Consequently, Congress enacted NEPA in 1970, marking a seminal moment in national environmental policy.<sup>241</sup> A precursor to the Environmental Protection Agency, NEPA was one of the first federal laws to recognize the environment as a national policy priority.<sup>242</sup>

While some strategies stem from legislation, others may originate from the executive branch when congressional action stalls or is considered politically infeasible. The Climate Action Plan, for example, emerged as President Obama’s response to congressional inaction.<sup>243</sup> In his 2013 State of the Union, President Obama issued a direct challenge: “I urge this Congress to pursue a bipartisan, market-based solution to climate change . . . [b]ut if Congress won’t act soon to protect future generations, I will.”<sup>244</sup> Four months later, he released the Climate Action Plan; its reliance on executive authority was seen as an acknowledgment that congressional legislative action was highly unlikely.<sup>245</sup>

Social movements and community action may also serve as the impetus for a national strategy. For example, President Clinton signed Executive Order 12898 – which, among other measures, created the Interagency Working Group on Environmental Justice – following protests by minority communities throughout the country who were disproportionately affected by “locally undesirable land uses” such as hazardous waste disposal sites.<sup>246</sup> In response to these protests, the House of Representatives ordered a government report to assess the protesters’ claims,<sup>247</sup> which were soon validated.<sup>248</sup> E.O. 12898 bestowed the grassroots environmental justice movement with new legitimacy and attention.<sup>249</sup>

The National HIV/AIDS Strategy may also be directly attributed to coordinated and sustained activism. While the Office of National AIDS Policy has existed since 1995, it did not release a national strategy until 2010. A few years earlier, in 2007, Open Society Institute’s Public Health Watch published a paper, Blueprint for a National AIDS Plan for the United States, calling for “a national plan that provides a roadmap for concrete and equitable results.”<sup>250</sup> Following the release of the paper, leading HIV/AIDS organizations formed the Coalition for a National AIDS Strategy and launched a website detailing the need for and content of an effective HIV/AIDS strategy.<sup>251</sup> Over 500 organizations and 1,000 individuals issued a “Call to Action” directed at all presidential candidates.<sup>252</sup> All Democratic primary candidates endorsed the need for a national HIV/AIDS strategy, and John McCain, the Republican candidate, later joined them.<sup>253</sup> Post-election, the Coalition sent a letter to the Obama Transition Team reiterating the need for a strategy and outlining guiding principles for this process.<sup>254</sup> In July of 2010, the White House released the first-ever National HIV/AIDS Strategy, incorporating many of those recommendations.<sup>255</sup>

## C. ENACTING AUTHORITY: EXECUTIVE ACTION, EXECUTIVE ORDER, ETC.

Coordinated national strategies may emerge from either the White House, through executive action, or Congress, through legislation. While both branches may create strategies that contain similar elements – such as a call for greater research and coordination or an interagency working group – where a strategy originates can affect its authority and ultimate outcomes.

### 1. EXECUTIVE ACTION AND EXECUTIVE ORDERS

The President can create a national strategy through executive action or an executive order. Executive action is a catchall term used to describe a broad range of agenda-setting actions taken by the President, whereas executive orders carry a technical meaning and are legally binding on federal agencies.<sup>266</sup> The President’s ability to direct action within the executive branch allows for a clear articulation of policy priorities, making immediate action more likely. Executive action and executive orders can thus provide a strong foundation for responsive, coordinated policymaking. Indeed, the Obama Administration has used this approach to address some of the country’s most high profile and controversial issues, including cyber security,<sup>267</sup> immigration,<sup>268</sup> and gun control.<sup>269</sup>

At the same time, executive directives may be seen as unilateral, and potentially unwelcome, policy-making.<sup>270</sup> In the United States, there are constitutional limits on the President’s ability to direct policy, so as to preserve the separation of powers between the branches of government.<sup>271</sup> In theory, an executive action must derive from a clear grant of authority either in legislation from Congress, or through an express grant of authority from the Constitution itself.<sup>272</sup> In practice, however, this doctrine is very permissive: when Presidential directives fail to cite any authoritative law, courts will often find a law that does grant the authority, or accept an ex-post grant of authority from Congress, either through ratification or mere acquiescence.<sup>273</sup> Consequently, while a politically contentious presidential directive may serve as a lightning rod for litigation, it is unlikely to be overturned by the courts on constitutional grounds.<sup>274</sup>

A strategy arising from the executive branch is, however, susceptible to change by Congress or subsequent administrations. As a result, the President may purposely design a coordinated strategy to exist for a finite period. For example, although the Climate Action Plan is intended to endure, it relies on agency actions that are slated for completion by the end of President Obama’s second term.<sup>275</sup> Even when a coordinated executive strategy endures across administrations, it may encounter inconsistent implementation and interpretation. President Clinton’s Environmental Justice Strategy, established through Executive Order 12898, underwent such changes. The Strategy requires that federal agencies address programs and policies that have a disproportionate, adverse effect on human health and the environment in minority and low-income populations.<sup>276</sup> While key provisions have survived multiple administrations, implementation has inconsistently reflected the language of E.O. 12898. Under the Bush Administration, the EPA de-emphasized minority and low-income populations, focusing instead on environmental justice for everyone.<sup>277</sup> The Obama Administration, however, has brought agencies into closer alignment with the original goals of E.O. 12898.<sup>278</sup>

## 2. CONGRESSIONAL ACTION

Legislative action, particularly when supported by both sides of the aisle, may strengthen public trust in a coordinated national strategy.<sup>279</sup> The bipartisan Pandemic and All-Hazards Preparedness Act (PAHPA), which created the National Health Security Strategy, passed both the Senate and House with unanimous consent, and received widespread support from key stakeholders, including physicians,<sup>280</sup> leading public health researchers,<sup>281</sup> and state and local public health officials.<sup>282</sup> These stakeholders also played an important role in advancing the Act's reauthorization in 2014.<sup>283</sup> In addition, legislation can provide a strategy with statutory authority to fulfill its goals.

Yet, a legislatively created strategy faces a few notable challenges. First, legislation is difficult to pass and inevitably requires compromises, creating the potential for complications before the strategy process is underway. Further, once legislation is passed, the realities of annual appropriations mean that the strategy could face elimination or crippling underfunding. This threat may become

### USING LEGISLATION TO ENSURE THAT COUNCIL AND COMMITTEE MEMBERSHIP INCLUDES KEY STAKEHOLDER AND DIVERSE VIEWPOINTS

Some existing federal, food-related programs offer examples of how legislation can be used to ensure that advisory councils and committees include key stakeholders and ensure balance across stakeholder groups, from federal and state agency representatives to non-profits and business entities:

**The Sustainable Agriculture Research and Education (SARE) Program** supports research and extension projects that further sustainable agriculture principles, such as low-input management practices and crop, livestock, and enterprise diversification.<sup>256</sup> Under the Program, the Secretary of Agriculture must establish four Regional Administrative Councils to evaluate project proposals and award SARE grants.<sup>257</sup> The Program's enacting legislation dictates the precise makeup of these councils; they must include representatives of the Agricultural Research Service, state cooperative extension services, relevant nonprofit organizations, agribusiness, and farmers utilizing sustainable agriculture methods, among others.<sup>258</sup> In addition, the law provides a membership catch-all for "persons knowledgeable about sustainable agriculture and its impact on the environment and rural communities."<sup>259</sup>

Established under the Agricultural Credit Improvement Act of 1992, the **Advisory Committee on Beginning Farmers and Ranchers** advises the Secretary of Agriculture on fostering programs that encourage and support new farmers and ranchers.<sup>260</sup> The law requires that the Committee include six members: representatives of 1) the Farmers Home Administration, 2) state beginning farmer programs, 3) commercial lenders, 4) relevant non-profit organizations, 5) the Cooperative Extension Service, and 6) community colleges or other educational institutions with demonstrated applicable expertise.<sup>261</sup> The law also includes a catch-all membership provision for "other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers."<sup>262</sup>

Under USDA's National Resources Conservation Services (NRCS), the Secretary must establish **State Technical Committees** that contribute technical expertise towards the design and implementation of conservation programs.<sup>263</sup> While the authorizing legislation dictates the general makeup of the committees, it provides some flexibility; it lists 13 affiliations for members of the committees, but only requires that committees "include representatives from among" the enumerated list.<sup>264</sup> This list includes the Natural Resources Conservation Service, Farm Service Agency, Forest Service, National Institute of Food and Agriculture, as well as state agencies, owners of private forest land, relevant nonprofits, and agribusiness.<sup>265</sup>

particularly pronounced when legislation lacks bipartisan support.<sup>284</sup> One means for cultivating support from both parties is the creation of a bipartisan committee. The 9-11 Commission strove for bipartisanship through a carefully designed appointment process: the President (then Republican) appointed the chair of the Commission; the Senate Democratic Party leader appointed the vice-chair of the Commission; and the senior member of each party in each house appointed two members.<sup>285</sup>

## D. ORGANIZING AUTHORITY: AGENCIES, OFFICIALS, AND EXPERTS

Once a coordinated strategy has been formally announced, whether by executive action or legislation, the actual work of creating and implementing a strategy requires oversight and dedicated support. Oversight generally comes from a White House office or official, or from an interagency working group. Occasionally, a presidential w council composed of experts and leaders outside of government will also play a role in designing and implementing a strategy. Generally, these organizing authorities serve three important functions: (1) establishing the strategy's goals and objectives and creating a written strategy document; (2) coordinating among agencies or other key actors; and (3) gathering input and engaging in reporting.

### I. DEDICATED OFFICES AND "CZARS"

With some strategies, a single entity, such as an office or committee, performs all, or most, of these functions. For example, the Office of the Assistant Secretary for Preparedness and Response under HHS prepares the National Health Security Strategy every four years and is responsible for collecting reports and data required under the Strategy.<sup>286</sup> In formulating the Strategy, the Assistant Secretary actively solicits and receives input from a range of stakeholders, including local and state entities, community organizations, and public health experts.<sup>287</sup> The Assistant Secretary then coordinates activities across agencies and manages strategy workgroups.<sup>288</sup>

Some strategies include the appointment of a so-called "czar" – an individual who oversees the creation and implementation of a strategy,<sup>289</sup> or who acts as principal advisor to the President on that issue.<sup>290</sup> For example, President Obama's recently announced Cybersecurity National Action Plan is the culmination of work that began at the start of his presidency with the appointment of a Cybersecurity Coordinator, a role that came to be known as the "cybersecurity czar."<sup>291</sup> As explained by the President, he personally selected the Cybersecurity Coordinator and "depend[s] on this official in all matters relating to cybersecurity."<sup>292</sup> The appointment of a czar sends a signal that the administration has designated an issue as a priority.<sup>293</sup> Yet the actual titles, roles, and responsibilities of those dubbed "czars" vary greatly: some hold positions within an agency or the White House, while others are external advisors.<sup>294</sup> The Cybersecurity Coordinator position, for example, has endured and comes with substantive responsibilities.<sup>295</sup> Other czars, however, lack formal authority, instead serving as figureheads appointed chiefly for public relations purposes.<sup>296</sup>



### WHAT'S YOUR PERSPECTIVE?

Do you think congressional action or executive action would be more appropriate for a national food strategy?

Executive Action

Congressional Action

Why do you think this?

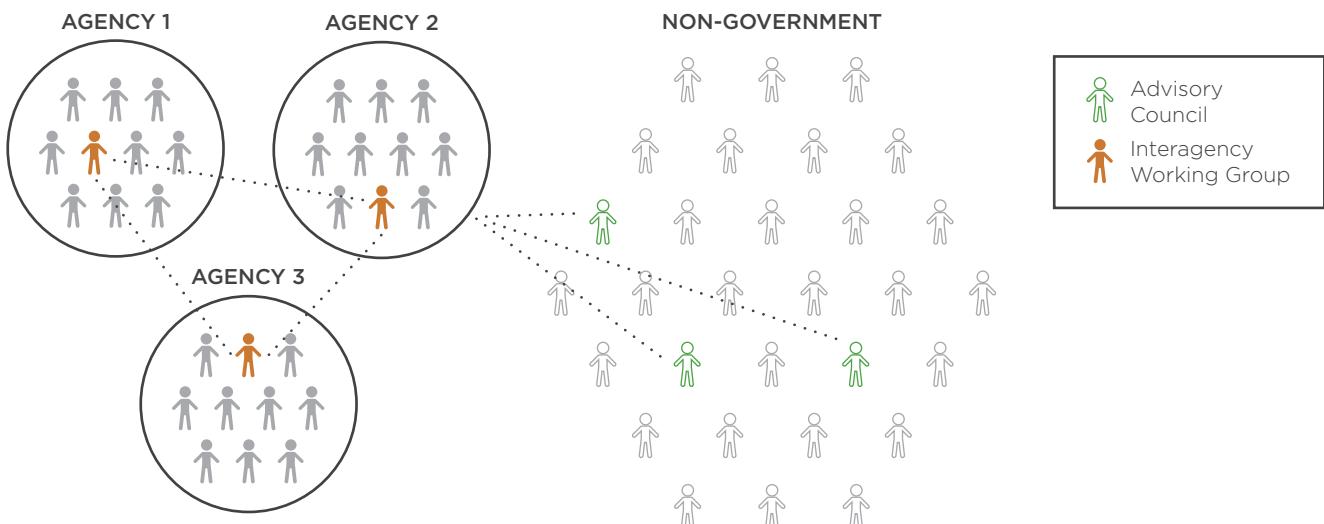
## 2. INTERAGENCY WORKING GROUPS AND ADVISORY COUNCILS

An interagency working group or task force (“working group”) and an advisory council or committee (“advisory council”) engage different constituencies and serve different roles. Working groups consist of federal employees, such as agency heads or representatives whereas advisory councils typically draw their members from outside the federal government. Their respective roles are closely tied to their membership: while working groups serve to facilitate coordination across federal agencies, advisory councils serve to solicit feedback and advice from key stakeholders and experts external to government.

One of the country’s more recent strategies, the National Strategy for Combating Antibiotic-Resistant Bacteria, operates through both an interagency working group (Task Force for Combating Antibiotic-Resistant Bacteria) and an advisory council (Council for Combating Antibiotic-Resistant Bacteria). The Task Force, which is co-chaired by the Secretaries of Defense, Agriculture, and Health and Human Services, develops the National Action Plan that helps federal entities achieve the goals laid out in the Strategy.<sup>297</sup> Unlike the Task Force, the Council draws its voting members from individuals outside of government; the Secretary of HHS, in consultation with the Secretary of Agriculture, appoints the 30-member Council.<sup>298</sup> The Council also includes non-voting members: ex-officio members from select federal agencies and representatives from related organizations and interest groups.<sup>299</sup> The Council is responsible for providing advice, information, and recommendations to the Secretary of HHS, who, in turn, provides the President with reports.<sup>300</sup>

Another important distinction is that advisory councils typically trigger the requirements of the Federal Advisory Committee Act (FACA), consisting largely of reporting and transparency measures.<sup>301</sup> The Act defines “advisory committee” quite broadly;<sup>302</sup> however, it explicitly exempts committees that consist entirely of part- or full-time federal employees, such as an interagency working group.<sup>303</sup> Where applicable, FACA requires that a committee file and update charters, hold open meetings, and publish all records, reports, transcripts, minutes, etc. related to its activities.<sup>304</sup> While the Act enhances transparency and accountability, many agency officials report that compliance can be resource intensive and cumbersome, sometimes detracting from the substantive work of and benefits provided by these councils.<sup>305</sup> However, advisory councils provide an important way to include the perspectives of experts, particularly top talent from an explicitly broad group of stakeholders.

**INTERAGENCY WORKING GROUP VS. ADVISORY GROUP (Fig. 4)**



## E. GATHERING INFORMATION FROM THE PUBLIC AND OTHER SOURCES

In addition to advisory councils, strategies can gather public input through other mechanisms. Because coordinated strategies cover broad topics across areas of national interest, most recognize the need to offer opportunities for widespread public input and engagement. Eliciting public input can take many forms, including online forums and surveys, listening sessions and tours, use of social media, and stakeholder meetings. Public input influences the strategy itself, while also strengthening support for the strategy once it is drafted.

The National HIV/AIDS Strategy deployed a full range of public engagement tools during its initial creation in 2009, and subsequent update in 2015. During the creation of the Strategy, the Office of National AIDS Policy solicited public input through fourteen community discussions attended by more than 4,200 people, and received over 1,000 written submissions through both online and in-person forums.<sup>306</sup> Several concepts emerged from the listening tour, including population- and location-specific interventions.<sup>307</sup> The tour heard from: “a wide range of ages, income brackets, sexual orientations, education levels, and occupations”; locations across the United States; and diverse racial and ethnic communities.<sup>308</sup> The President’s Advisory Council on HIV/AIDs, which consists of diverse membership, including activists and doctors, also contributed feedback on the Strategy’s creation.<sup>309</sup> When the Strategy was updated in 2015, the Office again held listening sessions across the country, and specifically engaged communities most affected by HIV/AIDS, resulting in widespread support for the new Strategy from key community organizations.<sup>310</sup>

Stakeholder engagement mechanisms like listening tours and comment periods offer efficient and transparent means for public input. One drawback, however, is the fact that those who attend listening sessions or submit comments tend to closely track federal policy, and likely possess the ability and sophistication to engage; this includes well-organized advocacy groups and corporate interests.<sup>311</sup> Important stakeholders who lack resources or sophistication, however, may miss opportunities for engagement, resulting in disparities among representation during agenda-setting processes. Proactively identifying and engaging traditionally underrepresented groups is one method to ensure that important voices are heard. For example, in the process of updating the National HIV/AIDS Strategy, the Office of National AIDS Policy acknowledged the importance of hearing from communities most affected by HIV/AIDS, and it actively solicited input from individuals and organizations from those communities.<sup>312</sup>

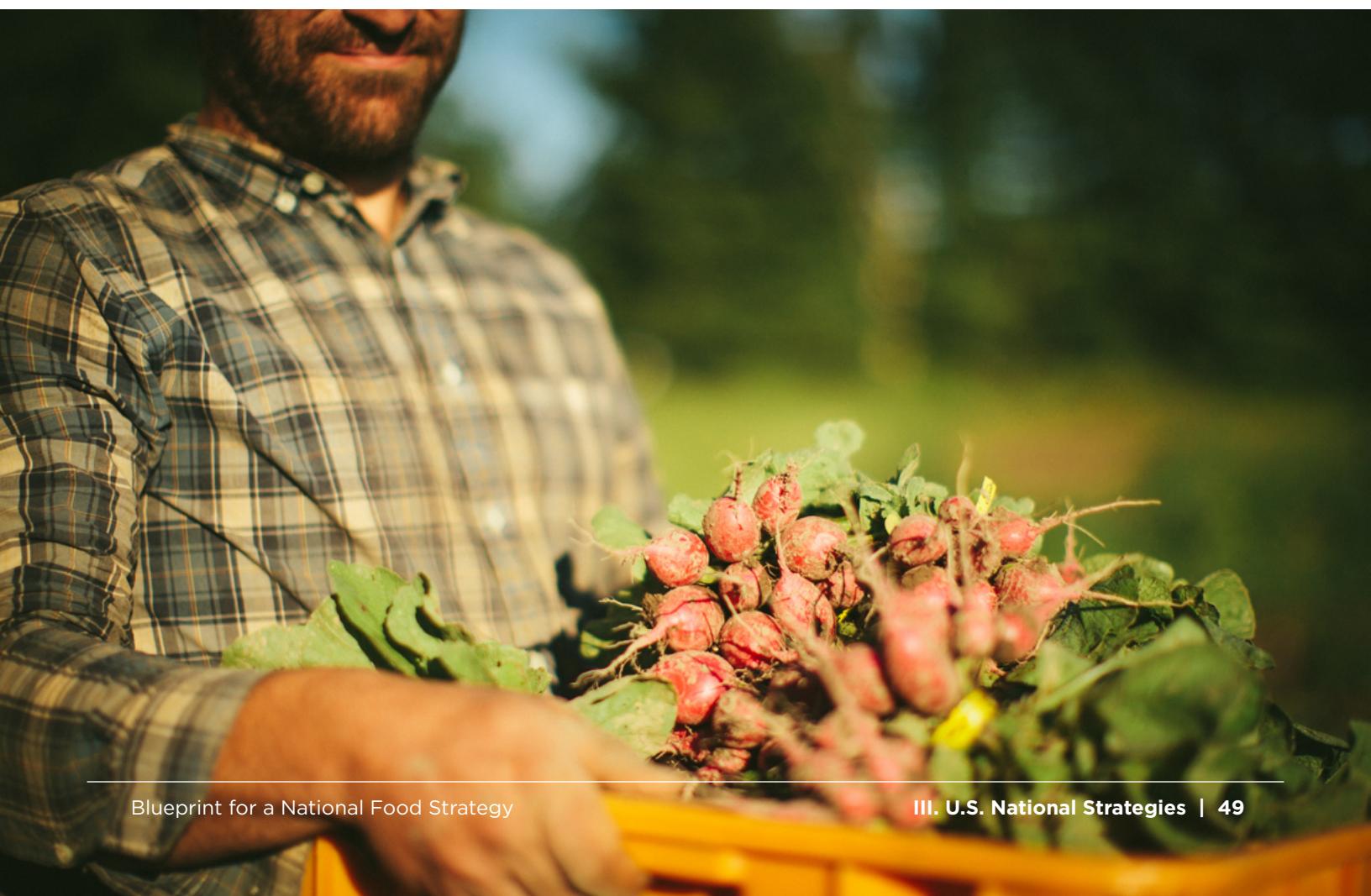
Technology has also created new avenues for public engagement. On his first full day in office, President Obama issued the Memorandum on Transparency and Open Government, which called for a more transparent, participatory, and collaborative government.<sup>313</sup> Following the Memorandum, the Office of Management and Budget directed federal agencies to take concrete steps, such as creating Open Government Webpages and Open Government Plans, to promote a culture and practice of open government.<sup>314</sup> The Memorandum requires agencies to update their Open Government Plans every two years, detailing how they will “promote opportunities for public participation in decision-making processes . . . [and] increase opportunities for public feedback.”<sup>315</sup> To support these efforts, over 70 federal partners came together and published the U.S. Public Participation Playbook, which includes checklists, case studies, and other resources to support public participation efforts.<sup>316</sup> Other federal initiatives to enhance public participation have included the launch of We the People, an online petition platform, and e-rulemaking platforms that make regulations easier to read and navigate.<sup>317</sup> However, these forums often require a certain degree of sophistication and technical knowledge in order to navigate them effectively.<sup>318</sup>

## F. CREATION OF WRITTEN STRATEGY

The written strategy document enshrines a strategy's goals, often including detailed objectives and expected outcomes. Some strategy documents also provide roadmaps for implementation, either in the strategy or an accompanying plan, addressing specific actors and outlining the actions they will take to advance goals. Some strategy documents are more prescriptive, instructing agencies as to what they must (and must not) do in order to achieve goals.<sup>319</sup> Others provide agencies with more discretion, setting broader goals for agencies to work within, or allowing agencies to form their own goals.<sup>320</sup>

Many strategy documents follow a basic format: a short number of goals and, under each goal, more detailed objectives, action steps, and anticipated outcomes. For example, the National Strategy for Combating Antibiotic-Resistant Bacteria establishes five interrelated goals, with the following sections under each goal: (1) the opportunity; (2) objectives; and 3) anticipated outcomes.<sup>321</sup> The opportunity section describes the facts, technologies, authorities, and barriers relevant to that goal and makes the case for why change is needed.<sup>322</sup> The objectives section enumerates the actions that will support each goal – e.g., “[i]mplement public health programs and reporting policies that advance antibiotic resistance prevention and foster antibiotic stewardship in healthcare settings and the community.”<sup>323</sup> Many objectives also reference existing government programs or documents, including agency guidance documents, that support the goal.<sup>324</sup> The anticipated outcomes section provides concrete and quantifiable metrics to be achieved by specific actors within a given timeframe.<sup>325</sup>

The Executive Order establishing the National Strategy for Combating Antibiotic-Resistant Bacteria called for an interagency task force to create an action plan with clear targets to achieve the



Strategy's goals and objectives.<sup>326</sup> Six months after the release of the formal strategy document, the Task Force released its National Action Plan for Combating Antibiotic Resistant Bacteria, outlining steps to implement the Strategy.<sup>327</sup> The National Action Plan emphasizes metrics, establishing detailed milestones for one, three, and five years.<sup>328</sup> It also identifies specific agencies and partners and sets numerical goals for the number of states that will have undertaken strategic objectives – e.g., “at least 25 states, the District of Columbia, and Puerto Rico will establish or enhance antibiotic stewardship activities.”<sup>329</sup>

The National Health Security Strategy document, by contrast, contains both a strategy and an implementation plan.<sup>330</sup> The Strategy proceeds from one straightforward, yet broad, goal: to “strengthen and sustain communities’ abilities to prevent, protect against, mitigate the effects of, respond to, and recover from incidents with negative health consequences.”<sup>331</sup> It establishes five guiding principles – e.g., evidence-based practice and community engagement – to inform decision-making.<sup>332</sup> The Strategy then focuses on five strategic objectives, such as “build[ing] and sustain[ing] healthy, resilient communities,” that advance the Strategy’s broad goal.<sup>333</sup> The Implementation Plan is nearly twice as long as the Strategy, and it provides more detail about each strategic objective, establishing a handful of priorities under each objective, as well as activities that support each priority.<sup>334</sup> It also designates a specific agency or two to oversee each activity.<sup>335</sup>

Some strategies require that individual agencies create their own plans to apply the strategy’s goals to their activities. These customized strategy documents allow an agency to implement the elements of a national strategy most relevant to its purview. Under the National Quality Strategy, agency-specific plans must discuss the manner in which agency priorities align with those of the Strategy, the agency’s plans to implement the Strategy, and how the agency will measure progress along the way.<sup>336</sup> While agencies have great discretion in drafting their strategies, the Agency for Healthcare Research and Quality within HHS is responsible for ensuring that these plans align with each other, and with the overall goals of the Strategy.<sup>337</sup> The Executive Order creating the Interagency Working Group on Environmental Justice included a similar requirement that each agency create its own Environmental Justice strategy.<sup>338</sup> While the entire Working Group initially reviewed each strategy,<sup>339</sup> it eventually established a Strategy and Implementation Progress Report Committee responsible for assisting agencies in designing and reviewing their unique strategies.<sup>340</sup>

While the process of creating a strategy can involve extensive stakeholder and public input, the written strategy document tends to include a concise statement of goals and objectives that does not account for all the acquired information. However, those who provide input typically want some indication that their views were considered. A strategy may demonstrate a commitment to stakeholder and public engagement by publishing a secondary strategy document or report that catalogues and responds to input. For example, the Office of National AIDS Policy augmented the formal National HIV/AIDS Strategy by publishing a report, Community Ideas for Improving the Response to the Domestic HIV Epidemic, highlighting community-generated ideas and innovations.<sup>341</sup> That report synthesizes comments received through listening sessions and online forums prior to the release of the Strategy.<sup>342</sup> While the National Strategy is focused on federal implementation,<sup>343</sup> the Report shares different population- and region-specific strategies that emerged from communities.<sup>344</sup>

## G. ONGOING REPORTING AND PERIODIC UPDATING

Monitoring and reporting on strategy implementation holds relevant actors accountable for their responsibilities under the strategy and, in addition, keeps the public engaged. Further, regular reporting can serve as a means of incrementally updating the strategy over time, highlighting new areas for exploration, and identifying challenges and opportunities for implementation.

### 1. ONGOING REPORTING

Often, a strategy's enacting legislation or executive action includes requirements for reporting and review. For example, the Executive Order establishing the National Strategy for Combating Antibiotic-Resistant Bacteria requires the Taskforce to submit an annual update to the President.<sup>345</sup> The annual update reports on progress related to specific goals, such as tracking the number of healthcare facilities with antibiotic stewardship programs.<sup>346</sup> Additionally, the annual update provides information about progress made towards broad National Targets, such as cutting the occurrence of certain infections by 50% by the year 2020.<sup>347</sup> Other strategy reports are made to Congress - under the Affordable Care Act, HHS must submit an annual progress report to Congress on the National Quality Strategy, including a reassessment of goals, as well as an accounting of progress, or lack thereof.<sup>348</sup>

In contrast, other strategies lack mechanisms for review and may, instead, be reviewed on an ad hoc basis. For example, no independent body was tasked with oversight and implementation of the 9/11 Commission.<sup>349</sup> Instead, implementation fell to Congress and the executive branch.<sup>350</sup> In 2011, the 9/11 Commission's Chair and Vice-Chair led an independent group to evaluate the implementation of the Commission's 41 recommendations.<sup>351</sup> The group found that while most recommendations, such as the creation of the Office of the Director of National Intelligence, were faithfully implemented, others, like the biometric entry-exit system, were not.<sup>352</sup>

### 2. PERIODIC UPDATING

In contrast, some strategies undergo periodic updating. This can help ensure a strategy's relevance, particularly as science, technology, and priorities change. In July 2015, the Office of National AIDS Policy released an updated version of the HIV/AIDS Strategy.<sup>353</sup> The updated version reflects policy and medical advances, such as pre-exposure prophylaxis, that have occurred since the Strategy was first released in 2010.<sup>354</sup> It also includes revised quantitative indicators to monitor implementation.<sup>355</sup> Updating the Strategy also provided an opportunity for continuing stakeholder and public engagement: the Office of National AIDS Policy hosted town hall meetings and solicited comments online.<sup>356</sup> Because of their participation in the updating process, key constituencies felt they had a stake in the new strategy and thus promoted its release.<sup>357</sup>

Periodic updating can also promote accountability. Under PAHPA, the Secretary of Health must submit a revised National Health Security Strategy to Congress every four years.<sup>358</sup> To accompany the release of the updated Strategy, the Office of the Assistant Secretary for Preparedness and Response compiles a comprehensive progress report, known as the National Health Security Review.<sup>359</sup> The Review collects, aggregates, and analyzes data from both governmental and non-governmental sources and is available on the Strategy's website.<sup>360</sup> While the Review highlights achievements and progress towards the Strategy's benchmarks,<sup>361</sup> it also identifies ongoing challenges.<sup>362</sup>

## H. A PROCEDURAL MANDATE

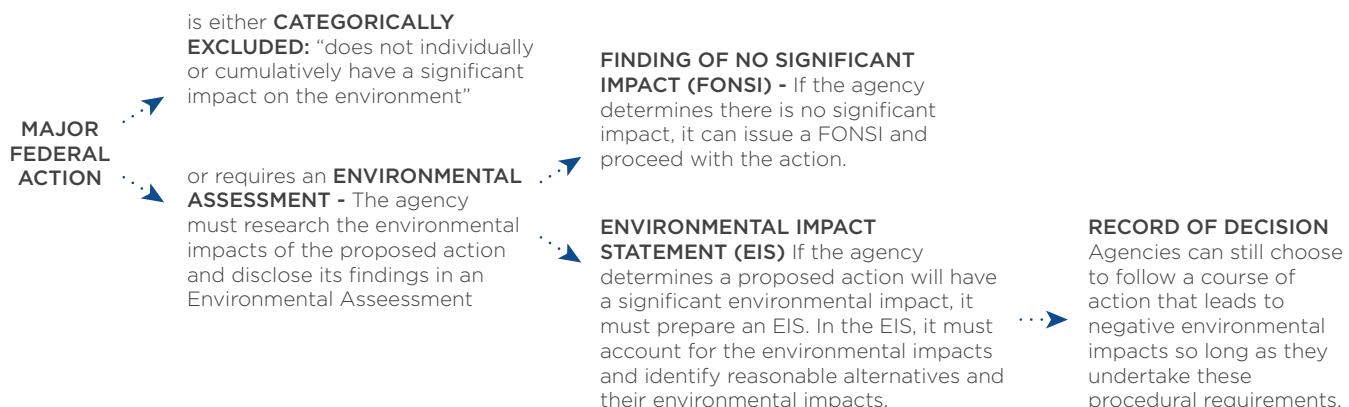
Most of the coordinated strategies discussed in this report focus on tasking an agency, official, working group, or committee with creation of a strategy in order to proactively address a pressing social issue in need of a coordinated response. A different method involves the creation of a procedural mandate, which requires that government actors analyze potential impacts on a priority area when making decisions. A procedural obligation does not compel an agency to pursue a particular course of action or make a specific substantive determination. Rather, the agency has decision-making discretion, so long as it follows the requisite procedural steps and can provide a legal basis for its decision. Ideally, a procedural requirement will exert some influence on agency decision-making, even if only indirectly, by requiring an agency to examine and explain the potential impacts of its actions, consider alternatives, and provide a rationale for selecting one course of action over another.

### NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act (NEPA) is the paradigmatic example of a procedural mandate.<sup>363</sup> NEPA requires that agencies report on the potential environmental impacts of any “major federal action” they plan to undertake.<sup>364</sup> In some instances, NEPA applies to the actions of private individuals and corporations, because agencies must follow NEPA’s requirements when they issue permits or provide funding for private projects, such as housing developments.<sup>365</sup> The Council on Environmental Quality (CEQ), a White House office, oversees implementation of NEPA and ensures agency compliance.<sup>366</sup> CEQ’s responsibilities include issuing guidance on NEPA regulations, reviewing agency procedures for implementing NEPA, and resolving NEPA-related issues, whether among agencies or between agencies and members of the public.<sup>367</sup>

NEPA’s procedural requirements depend on the nature of a proposed action. Under NEPA, there are three levels of actions: (1) actions that are categorically excluded; (2) actions that require an Environmental Assessment (EA); and (3) actions that require an Environmental Impact Statement (EIS).<sup>368</sup> Actions that are categorically excluded “do not individually or cumulatively have a significant effect on the human environment.”<sup>369</sup> Each agency develops its own procedures for making this determination; however, CEQ has issued guidance for agencies on how to apply categorical exclusions to ensure they are used appropriately.<sup>370</sup>

### THE NEPA PROCESS (Fig. 5)



## PARTICIPATION UNDER NEPA

Public participation under NEPA varies depending on the agency involved and the proposed action. In preparing an Environmental Assessment (EA), an agency need only involve the public “to the extent practicable.”<sup>377</sup> Agencies have interpreted this provision differently meaning each agency has its own procedures for soliciting public feedback on EAs, with some requiring a public comment period for EAs.<sup>378</sup> The Environmental Impact Statement (EIS) process, however, entails multiple opportunities for stakeholder and public input. At the outset, agencies must publish a Notice of Intent in the Federal Register with information on the proposed action and how the public can learn more and provide feedback.<sup>379</sup> Agencies are also required to identify all potential stakeholders and invite them to participate in the EIS process.<sup>380</sup> They can solicit input through a variety of means, everything from formal hearings to video conferencing.<sup>381</sup>

Once an agency publishes a draft EIS, a notice of its availability is published in the Federal Register and the agency must collect public comments on the draft for at least 45 days.<sup>382</sup> The agency may also conduct public meetings or hearings to solicit additional input during this time.<sup>383</sup> Based on the comments received on the draft version, the agency publishes a final version, which must respond to substantive comments received from other agencies, key stakeholders, and members of the public.<sup>384</sup>

For actions that are not categorically excluded, federal agencies must analyze the environmental impacts of a proposed federal action and disclose their findings in an EA.<sup>371</sup> If an agency determines that there is no significant environmental impact, it can issue a Finding of No Significant Impact.<sup>372</sup> However, if an agency determines that a proposed action will have significant environmental impact, the agency must prepare an EIS, which requires a more extensive process.<sup>373</sup> In an EIS, an agency must account for the environmental impacts of the proposed action and identify reasonable alternatives and their environmental impacts.<sup>374</sup> CEQ describes the reasonable alternatives section as “the heart of the NEPA analysis”<sup>375</sup> because it provides the public with information to evaluate the effects of a proposed action against the effects, positive and negative, of alternatives. In the final phase of the EIS process, an agency must issue a Record of Decision that states the agency’s chosen course of action and provides some rationale for the decision, including all factors that were contemplated in reaching the decision and the alternatives that were considered.<sup>376</sup>

NEPA’s procedural requirements promote both consideration of the environment and transparency in agency decision-making, due to the fact that agencies must account for the potential long-term, adverse impacts of their actions. NEPA also fosters greater coordination, making it apparent when multiple agencies are somehow involved in a proposed action, or when an action benefitting one agency may impede the goals of another agency.<sup>385</sup> Following NEPA’s procedural requirements can result in an agency undertaking a course of action that is different than that which was originally proposed.<sup>386</sup> However, because these requirements are only procedural, agencies can still choose to follow a course of action that leads to negative environmental impacts, so long as they undertake the requisite steps.<sup>387</sup> NEPA is also largely prospective, focusing on potential future impacts rather than past decision-making.

Overall, NEPA is a longstanding policy mechanism that has been successful in raising the national profile of environmental protection and engaging agencies, stakeholders, and the public in scrutinizing decisions with potential negative environmental impacts.

## **HEALTH IMPACT ASSESSMENTS:**

A handful of other countries<sup>388</sup> have successfully implemented a similar procedural assessment, known as a Health Impact Assessment (HIA), which requires consideration of the human health impacts when undertaking governmental action.<sup>389</sup> Health professionals in the United States have also advocated for federal adoption of a HIA requirement.<sup>390</sup> When making an HIA, agencies assess how a governmental action might affect the health of the nation or of a specific community.<sup>391</sup> For example, in the United Kingdom, the Department of Transport prepared and submitted an HIA as part of a proposal to build a high-speed rail.<sup>392</sup> Though an HIA is not required by statute, the Department of Transport undertook the HIA process in order to integrate human health concerns into the design and planning process; identify potential areas of concern, as well as measures for mitigation and compensation; and keep communities informed.<sup>393</sup> An HIA was published<sup>394</sup> and then updated to reflect measures that were taken to respond to concerns raised in the initial HIA.<sup>395</sup>

## **I. CONCLUSION**

As these examples illustrate, although the particulars may vary, there are ample precedents for robust national strategies in the United States that address complex, dynamic federal policy issues. While the United States may not have a national food strategy, the concept of a coordinated, federal-level strategy is well established. Such strategies serve a number of purposes. Some simply aim to reduce the degree to which federal agencies, laws, and policies work at cross purposes, while others also seek to fulfill broader functions: strengthening vital systems;<sup>396</sup> addressing an overlooked policy area;<sup>397</sup> and preventing or mitigating a national crisis.<sup>398</sup> Moreover, strategies also create opportunities for stronger law and policy making. They create forums for citizen and stakeholder participation; generate data and metrics against which to evaluate that data; and help legislators and policymakers coordinate activities and identify tradeoffs where they occur. The United States has a number of policy tools and best practices at its disposal to create a national food strategy and, moreover, ensure that it fulfills its promise.



# IV. KEY FINDINGS AND RECOMMENDATIONS

## COORDINATION RECOMMENDATIONS:



**RECOMMENDATION:** Identify a lead office or agency and provide it with resources and the authority to compel engagement and action in the creation of the strategy

**RECOMMENDATION:** Create an interagency working group to promote interagency coordination

**RECOMMENDATION:** Engage state, local, and tribal governments as key partners

## PARTICIPATION RECOMMENDATIONS:



**RECOMMENDATION:** Create an advisory council to guide strategy design and implementation

**RECOMMENDATION:** Develop a multi-pronged approach for stakeholder and public participation and provide opportunities for feedback throughout the process

**RECOMMENDATION:** Respond to public input to affirm its value and encourage input on an ongoing basis

## TRANSPARENCY AND ACCOUNTABILITY RECOMMENDATIONS:



**RECOMMENDATION:** Create a written strategy document that includes priorities, goals, expected outcomes, implementation measures, and concrete metrics for measuring progress

**RECOMMENDATION:** Require publication of annual, public-facing reports that measure progress against the strategy's goals, metrics, and expected outcomes

## DURABILITY RECOMMENDATIONS:



**RECOMMENDATION:** Ensure periodic updating of the strategy to reflect changing social, economic, scientific, and technological factors

**RECOMMENDATION:** Implement a procedural mechanism to guide agency decision-making

The United States should create a national food strategy. The concept of creating a national food strategy to reduce fragmentation and strengthen food systems outcomes is neither radical nor novel. Other countries have addressed food systems challenges through national food strategies that involved significant governmental coordination and public engagement. The United States has, moreover, frequently used national strategies to address a range of challenges requiring coordinated action, long-term planning, and broad stakeholder engagement. The United States can, and should, draw on these precedents in crafting a national food strategy.

This section presents the key findings from our research, as well as ten recommendations for how the United States can best develop a coordinated and comprehensive national food strategy. These recommendations seek to integrate examples from the domestic and international strategies examined in this report, address key challenges under the current U.S. food system, and respond to some of the concerns – both about the food system itself and the potential for a national food strategy – raised in our interviews with food system thought leaders.

The findings and recommendations are organized in accordance with four principles: coordination; participation; transparency and accountability; and durability. These principles should guide the creation of a national food strategy in the United States to ensure that it achieves its potential, leveraging lessons from existing domestic national coordinated strategies, as well as the national food strategies developed by other countries. Each principle is followed by a targeted set of recommendations, drawn from existing policy mechanisms and other best practices. While much could be written about each one of these recommendations, they are intentionally short, intended to spark dialogue and further elaboration in the future.

## A. COORDINATION

The existing legislative and regulatory framework fails to consider the food system holistically, ultimately resulting in laws and policies that are at odds with one another, or that benefit one segment of the food system at the expense of another. This is, in no small part, due to a lack of coordination. The federal agencies and the myriad laws and policies that influence our food system generally operate in isolation, resulting in potentially devastating policy misalignment and inefficiency.

There are ample precedents for interagency coordination in the United States facilitated by national strategies that address issues that cut across the jurisdictional reach of numerous agencies. In addition, as demonstrated by precedents from other countries, a carefully crafted food strategy can include a wide variety of stakeholders, including federal and state agencies, industry, advocacy groups, and members of the public. The level and extent of coordination can vary – while some strategy mechanisms simply facilitate the exchange of information, others promote shared policy goals and careful alignment of agency activities.

Overall, these coordination mechanisms can cultivate a more integrated, systems approach to the food system. Such an approach recognizes that agencies can work in concert. An agency's actions in pursuit of its goals can affect another agency's ability to pursue separate goals, making tradeoffs inevitable, but they must be acknowledged and prioritized.



## COORDINATION RECOMMENDATIONS:

### **RECOMMENDATION: Identify a lead office or agency and provide it with resources and the authority to compel engagement and action in the creation of the strategy**

*Whether a strategy is created by executive order or legislation, authority should be given to an office within the White House or a federal agency to initiate the process, convene agencies and other key stakeholders, gather information, make important decisions, and compel engagement by agencies and stakeholders. While authority may be delegated to other groups, such as interagency working groups or advisory councils (see below), a high-level office should serve as a focal point to provide the strategy with legitimacy and visibility. Likewise, the lead office should have sufficient resources to carry out its mandate and activities.*

### **RECOMMENDATION: Create an interagency working group to promote interagency coordination**

*A national food strategy should promote interagency coordination to reduce existing fragmentation and identify common goals. An interagency working group could lay the groundwork for a national strategy by identifying and convening the key federal agencies, laws, and regulations that shape our national food system. The group could also oversee implementation of the strategy's goals and report on the strategy's progress. A robust interagency working group should include representation from all relevant agencies, such as those responsible for health, food safety, agriculture, the environment, education, and labor, among others.*

### **RECOMMENDATION: Engage state, local, and tribal governments as key partners**

*State, local, and tribal governments must serve as key contributors and partners in strategy design and implementation to ensure that a national food strategy does not override local and regional food system priorities. Moreover, the strategy should identify processes for ongoing engagement to ensure that strategy goals incorporate and support local and regional needs. Likewise, the strategy should create opportunities to identify and promote best practices that have emerged at the state, local, and tribal levels, and elevate them to the federal level, when appropriate.*

## B. PARTICIPATION

Though food is vital for everyone, the existing law and policy making framework offers few opportunities for key stakeholders and the public to provide meaningful input on goals, priorities, and implementation. This is due, in part, to the failure to consider the system holistically: the legislative and regulatory processes offer opportunities for input on discrete regulations but rarely on strategic, long-term issues. Furthermore, because so many policies impact food, key stakeholders may not know their interests are at stake or have the resources to participate in the legislative and regulatory processes. As a result, the policies that govern one of our most critical systems often fail to take into account the needs of its stakeholders.

Public participation must be a top priority and defining feature of a national food strategy. Such participation should be both inclusive and meaningful. The former focuses on who is involved in the process – a strategy must utilize active measures to ensure that participation represents the multiplicity and diversity of food system interests, and that traditionally underrepresented groups are heard. The latter focuses on how – a strategy must engage the public and key stakeholders early and

often while signaling that their input is taken seriously by responding to public comments. This input should be reflected in the strategy's priorities, goals, and objectives, and when it is not, care should be taken to respond and explain why.

Public participation in law and policy making not only promotes accountability, but also strengthens outcomes. Laws and policies informed by active participation are more likely to reflect stakeholders' actual needs and capabilities, thereby easing implementation. Those who participate are more likely to feel that they have a stake in the final outcome and will continue to stay engaged. The Internet – particularly with the advent of e-rulemaking and Gov 2.0 platforms – offers increased opportunities for informal and formal participation. Yet, online participation should not be overemphasized at the expense of other, equally important and proven mechanisms, such as advisory councils, public hearings, listening sessions, stakeholder interviews, community surveys, and participatory budgeting.



## PARTICIPATION RECOMMENDATIONS:

### **RECOMMENDATION: Create an advisory council to guide strategy design and implementation**

*An advisory council should play an active role in strategy design and implementation, both at the outset and on an ongoing basis. An advisory council engages key stakeholders external to the federal government, ensuring that their perspectives inform the strategy and, more broadly, signaling their importance within the food system. The council must feature a range and balance of perspectives – representatives of all segments of food and agricultural production, including small, midsized, and large farms; small, midsized, and large retailers; academics and researchers from a variety of relevant fields; nonprofit organizations; and members of state and local governments. Care should be taken to ensure that certain perspectives do not override others. In this vein, membership must include traditionally underrepresented groups, including communities of color, small-holder farmers, and low-income consumers.*

### **RECOMMENDATION: Develop a multi-pronged approach for stakeholder and public participation and provide opportunities for feedback throughout the process**

*A national food strategy should offer ample opportunities for broad-based public input. This could include creating an online platform to gather input; holding listening sessions around the country to meet communities where they are; partnering with local and national civil society organizations to drive participation; and hosting consultations to receive targeted input.*

*Effective stakeholder and public engagement must begin early in the creation of a national strategy, before key priorities have been developed. Starting a public dialogue from the outset will ensure that stakeholders and the public have a say in what issues are being considered and what players are involved. In addition, it will create greater awareness around the strategy's creation, implementation, and progress.*

### **RECOMMENDATION: Respond to public input to affirm its value and encourage input on an ongoing basis**

*In addition to creating avenues to collect public input, steps should be taken throughout the process to respond to this input. The written strategy document should acknowledge the views and suggestions obtained through stakeholder and public consultations.*

## C. TRANSPARENCY AND ACCOUNTABILITY

The American public increasingly desires greater transparency about their food – where it comes from, what it contains, and how it was made. This desire for transparency is not just limited to food itself, but extends to the entire system that supports our food – for example, how the government decides what is healthy or what crops to subsidize. However, information about the laws and policies that shape our food system, or when and why key decisions are being made, is hard to access and often difficult to understand. This lack of transparency inhibits accountability: if members of the public cannot identify and understand how policy actions shape the food system, they cannot hold the government accountable for those actions.

A national food strategy can create opportunities for greater transparency and accountability; however, it also presents challenges. Although interagency coordination is beneficial, it can be hard to monitor. In addition, setting priorities and goals is only productive if you can track and modify them; otherwise, they can quickly become obsolete, eroding confidence in the strategy overall.

A national food strategy must, therefore, implement mechanisms to foster transparency and accountability. The former focuses on designing an accessible process and putting stakeholders and the public on notice, whereas the latter requires providing them with the information and tools necessary to track the strategy's progress. Like participation, transparency and accountability also enhance the role of the public in crafting and implementing the policy, thereby ensuring greater buy-in.

### TRANSPARENCY AND ACCOUNTABILITY RECOMMENDATIONS:

**RECOMMENDATION: Create a written strategy document that includes priorities, goals, expected outcomes, implementation measures, and concrete metrics for measuring progress**

*To enable greater public awareness, the strategy should be embodied in a written strategy document, which should clearly and succinctly articulate food system priorities and goals, putting Congress, agencies, and the public on notice about the priorities identified through the strategy that should be included in future policymaking. In addition, the strategy document should include a roadmap for how to achieve those goals, identifying responsible agencies and other key actors, actions, expected outcomes, and objective metrics – this could also be included in a follow-up plan.*

**RECOMMENDATION: Require publication of annual, public-facing reports that measure progress against the strategy's goals, metrics, and expected outcomes**

*The written strategy document should require regular reporting to evaluate progress and promote accountability. Reports should reference the written strategy's goals, metrics, and expected outcomes. The reporting requirement could take one of two forms: 1) the office or group tasked with implementation of the strategy could provide annual progress reports that detail successes and challenges in implementing the strategy; or 2) each individual agency could compile its own report, with agency-specific metrics and outcomes. Congress should review these reports and reevaluate its legislative priorities to support the strategy's goals. The reports should be accessible and widely available to the public and disseminated through stakeholder groups, community groups, social media, relevant media channels, etc. Promoting transparency does not end with making information available, but also requires making that information accessible and digestible; reports should be readable by a general audience.*

## D. DURABILITY

Addressing the food system holistically necessitates long-term planning. It may take many years – if not decades – for the full effects of the public health, environmental, and economic development policies that impact the food system to bear out. Yet, long-term progress can often be frustrated by political factors, such as a new administration or a lack of political will. Promising policy initiatives may be undertaken by one administration, only to be directly or indirectly undone by the next. A national food strategy must, therefore, include mechanisms to endure, to maintain focus on long-term priorities, and to withstand changes in the administration and Congress.

At the same time, our understanding of the food system is constantly evolving. One can point to numerous instances in which changing science has fostered a reevaluation of critical issues, from nutrition science to the use of pesticides or antibiotics. Likewise, consumer preferences and public priorities change over time due to social, economic, and other factors. New food systems issues will continue to emerge, along with new tools to address existing issues. Consequently, a national food strategy must be flexible. It must provide the space to identify changes in science, technology, markets, and consumer preferences, and respond accordingly.

### DURABILITY RECOMMENDATIONS:

#### **RECOMMENDATION: Ensure periodic updating of the strategy to reflect changing social, economic, scientific, and technological factors**

*The strategy should be a living document that evolves with our understanding of the food system. The strategy should include a requirement that it undergo revision and updating on a periodic basis in order to react to critical developments in science and technology, reflect new challenges, and respond to changes in public priorities. Like the process of drafting the written strategy in the first instance, the process for updating the strategy should be as inclusive as possible, continuing to engage with communities and key stakeholders.*

#### **RECOMMENDATION: Implement a procedural mechanism to guide agency decision-making**

*A procedural mechanism could be used to ensure that agencies, at the very least, acknowledge food system priorities when taking actions that may affect the food system. A Food System Impact Assessment could build on the framework established by the National Environmental Policy Act and Health Impact Assessments used by other countries. Under this process, an agency would have to publicly address the ways in which its actions could affect the food system, providing an opening for public and stakeholder scrutiny and input. Such a mechanism could increase the likelihood that agency actions align with food system priorities. A procedural mechanism also offers several ancillary benefits, including providing: (i) a basis for legal challenges to agency actions; (ii) additional opportunities for public engagement; (iii) a paper trail for agency decision-making on a particular set of issues; and (iv) the authority to endure across administrations.*

Because a procedural mechanism largely influences future agency actions and does not comprehensively address existing laws, it should not serve as a stand-alone strategy. Rather, it should be used in conjunction with other mechanisms, such as an interagency working group, that can set goals to take action on existing laws and policies and also proactively identify new laws and policies that could improve the food system.

## SNAPSHOT: THE HIV/AIDS STRATEGY

The National HIV/AIDS Strategy exemplifies the four principles in action:



### COORDINATION

The Strategy spans three key coordination mechanisms: a White House office (the Office of National AIDS Policy, or ONAP), an advisory group (the President's Advisory Council on HIV/AIDS, or PACHA), and an interagency working group (the National HIV/AIDS Strategy Federal Interagency Working Group, or the Working Group). Each serves important, yet complimentary functions. ONAP drafted the written strategy and oversees ongoing coordination, while PACHA's role is purely advisory. The most recent version of the Strategy created the Working Group, which identifies and disseminates best practices among federal agencies, among other roles. The latest version of the Strategy also emphasizes national, state, Tribal and local engagement.



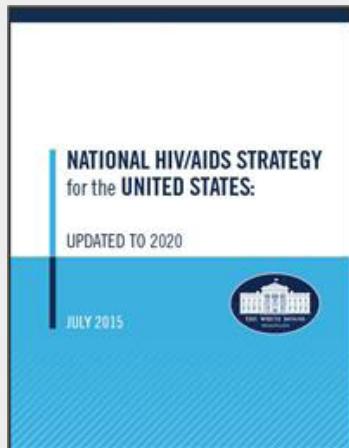
### PARTICIPATION

In drafting the original written strategy, ONAP held a series of community discussions around the country, as well as online forums to engage as many stakeholders as possible. ONAP memorialized and shared this feedback by publishing a report, *Community Ideas for Improving the Response to the Domestic HIV Epidemic*. In the process of updating the National HIV/AIDS Strategy, ONAP again held listening sessions, and actively solicited feedback from communities most affected by HIV/AIDS. In addition, PACHA serves as a vehicle for engaging key stakeholders; the Council's members include policy specialists, community organizers and advocates, individuals living with HIV, and doctors, among others.



### TRANSPARENCY AND ACCOUNTABILITY

The written strategy document includes top-line priorities, process-oriented metrics, action steps, and targets to assess progress. In providing recommendations to HHS, PACHA regularly consults relevant agencies and agencies must disclose pertinent information. In addition, the Strategy requires regular evaluation and updating, with published reports that indicate developing information, such as scientific advances, that impact the Strategy.



The written strategy document was updated five years after it was first published to reflect advances in science and medicine, as well as evolving community priorities.



## E. CONCLUSION

The food system poses a range of critical challenges that impact our nation’s health, economy, and the environment. Some of these challenges are the result of our fragmented regulatory structure and others are not, but all are hampered by our inability to coordinate to identify core food system goals as well as the responses that can allow us to meet those goals. The existing domestic coordinated strategies and the national food strategies in a range of other countries make a compelling case for the United States to adopt a national food strategy. Specifically, these examples demonstrate that the United States possesses the tools needed to make such a strategy a reality, and moreover that our country is not alone in realizing that such an endeavor is of fundamental importance. A national food strategy in the United States could provide a framework for more informed, effective, and coordinated law and policy-making at the federal level and throughout the country. While much of the conversation around a national food strategy will focus on the substance of such a strategy (the policy goals and priorities themselves), process is equally important. A well-designed process that embodies the above principles of coordination, participation, transparency and accountability, and durability can ensure that a comprehensive national food strategy creates a structure to advance a more healthful, sustainable, equitable, and economically vital food system.



---

## THANKS FOR READING!

We would love to get an idea of who is reading our report through the questions below, and make sure to press “Submit” if you have answered any of the feedback prompts!

---

I am currently employed.

I am currently retired or unemployed.

Which of the following categories best describes the industry you primarily work in (regardless of your actual position)?

Which of the following best describes your role in industry?

The organization you work for is in which of the following:

Additional comments:

# ENDNOTES

---

1. This report refers to food system to include both food and agriculture. Food system is defined in this report to mean “all of the processes involved in getting food from the farm to table to disposal, including production, processing, distributing, preparing, marketing, accessing, consuming and disposing.” Roni A. Neff et al., *Food Systems and Public Health Disparities*, 4 J. Hunger & Envtl. Nutrition 282, 283 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3489131/>.
2. Ag and Food Sectors and the Economy, Econ. Research Serv., U.S. Dep’t Agric. (Oct. 14, 2016), <http://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/ag-and-food-sectors-and-the-economy.aspx>.
3. See Y. Claire Wang et al., *Health and Economic Burden of the Projected Obesity Trends in the USA and the UK*, 378 Lancet 815, 816 (2011).
4. Childhood Obesity Facts, Ctrs. Disease Control & Prevention, U.S. Dep’t Health & Human Servs. (2015), <https://www.cdc.gov/healthyschools/obesity/facts.htm>.
5. Katherine M. Flegal et al., *Trends in Obesity Among Adults in the United States, 2005 to 2014*, 315 J. Am. Med. Ass’n 2284, 2286 (2016); Cynthia L. Ogden et al., *Trends in Obesity Prevalence Among Children and Adolescents in the United States, 1988-1994 Through 2013-2014*, 315 J. Am. Med. Ass’n 2292, 2294 (2016).
6. See, e.g., David Wallinga, *Agricultural Policy and Childhood Obesity: A Food Systems and Public Health Commentary*, 29 Health Affairs 405 (2010); Barry M. Popkin et al., *The Role of High Sugar Foods and Sugar-Sweetened Beverages in Weight Gain and Obesity: Managing and Preventing Obesity: Behavioural Factors and Dietary Interventions* (2014).
7. See Ross A. Hammond & Ruth Levine, *The Economic Impact of Obesity in the United States*, 3 Diabetes, Metabolic Syndrome and Obesity: Targets and Therapy 285 (2010).
8. See Eric Finkelstein et al., *Annual Medical Spending Attributable to Obesity: Payer-And Service-Specific Estimates*, 28 Health Affairs w822 (2009).
9. John Cawley & Chad Meyerhoefer, *The Medical Care Costs of Obesity: An Instrumental Variables Approach*, 31 J. Health Econ. 219, 226 (2012).
10. Food insecurity is the limited or uncertain availability of nutritionally adequate and safe foods or limited or uncertain ability to acquire acceptable foods in socially acceptable ways. Econ. Research Serv., U.S. Dep’t Agric., *Measurement* (Oct. 4, 2016), <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/measurement.aspx>.
11. Alisha Coleman-Jensen et al., *Household Food Insecurity in the United States in 2015* i (Sept. 2016), <http://www.ers.usda.gov/webdocs/publications/err215/err-215.pdf>.
12. Id. at 1.
13. John T. Cook et al., *Estimating the Health-Related Costs of Food Insecurity and Hunger*, Bread For The World Inst. 247, 248 (2015), [http://www.bread.org/sites/default/files/downloads/cost\\_of\\_hunger\\_study.pdf](http://www.bread.org/sites/default/files/downloads/cost_of_hunger_study.pdf).
14. Food Prices and Spending, Econ. Research Serv., U.S. Dep’t Agric. (2016), <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/food-prices-and-spending/>.
15. Background: How Important Is Irrigation to U.S. Agriculture?, Econ. Research Serv., U.S. Dep’t Agric., <http://www.ers.usda.gov/topics/farm-practices-management/irrigation-water-use/background/> (last updated Oct. 12, 2016). In addition, since 1950, 65% of all water withdrawals (from surface and groundwater) have been used for crop irrigation. See Irrigation Water Use, U.S. Geological Survey, U.S. Dep’t Interior, <http://water.usgs.gov/edu/wuir.html> (last updated Oct. 27, 2016). In 2010, irrigation accounted for 33% of all water usage, aquaculture 3%, and livestock 1%. Maupin, M.A., Kenny, J.F., Hutson, S.S., Lovelace, J.K., Barber, N.L., & Linsey, K.S., U.S. Geological Survey, U.S. Dep’t Interior, *Estimated Use of Water in the United States in 2010*, Circular 1405, 8 (2014), <http://pubs.usgs.gov/circ/1405/pdf/circ1405.pdf>. In the farm production regions of the U.S., combined water and wind erosion in 2007 resulted in soil loss of 2.7 tons per acre per year in the Northeast and 8.8 tons per acre per year in the Southern Plains. Nat. Res. Conservation Serv., *2007 National Resources Inventory: Soil Erosion on Cropland*, 4 (Apr. 2010), [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs143\\_012269.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_012269.pdf). According to the 2012 USDA National Agricultural Statistics Service (NASS) Census of Agriculture, 914,527,657 acres of land were in farmland production. See Nat'l Agric. Statistics Serv., U.S. Dep’t Agric., *Acres of Land in Farms: 2012*, [https://www.agcensus.usda.gov/Publications/2012/Online\\_Resources/Ag\\_Atlas\\_Maps/Farms/Land\\_in\\_Farms\\_and\\_Land\\_Use/12-M077-RGBDot1-largetext.pdf](https://www.agcensus.usda.gov/Publications/2012/Online_Resources/Ag_Atlas_Maps/Farms/Land_in_Farms_and_Land_Use/12-M077-RGBDot1-largetext.pdf).
16. Nat'l Agric. Statistics Serv., U.S. Dep’t Agric., *Farms and Farmland: Numbers, Acreage, Ownership, and Use 1* (Sept. 2014), [https://www.agcensus.usda.gov/Publications/2012/Online\\_Resources/Highlights/Farms\\_and\\_Farmland/Highlights\\_Farms\\_and\\_Farmland.pdf](https://www.agcensus.usda.gov/Publications/2012/Online_Resources/Highlights/Farms_and_Farmland/Highlights_Farms_and_Farmland.pdf).
17. Agriculture accounted for 10 percent of U.S. greenhouse gas emissions in 2014, Econ. Research Serv., U.S. Dep’t Agric., <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=61009> (last updated May 10, 2016).
18. See Dana Gunders, Natural Res. Def. Council, *Wasted: How America is Losing up to 40% of its Food from Farm to Fork to Landfill* (2012), <https://www.nrdc.org/sites/default/files/wasted-food-IP.pdf>.
19. See Id. at 14.
20. Emily Broad Leib, *The Forgotten Half of Food System Reform: Using Food and Agricultural Law to Foster Healthy Food*

- Production, 9 J. Food L. & Pol'y 17, 34–36 (2013).
21. Econ. Research Serv., U.S. Dep't Agric., *supra* note 17.
  22. U.S. Geological Survey, U.S. Dep't Interior, Nitrogen and Water, <http://water.usgs.gov/edu/nitrogen.html> (last updated Dec. 9, 2016).
  23. Elizabeth Kiehne & Natasha S. Mendoza, Migrant and Seasonal Farmworker Food Insecurity: Prevalence, Impact, Risk Factors, and Coping Strategies, 30 Soc. Work in Pub. Health 397 (2015).
  24. See e.g., Mark Bittman, Michael Pollan, Ricardo Salvador, & Olivier De Schutter, How a national food policy could save millions of American lives, The Washington Post (Nov. 7, 2014), [https://www.washingtonpost.com/opinions/how-a-national-food-policy-could-save-millions-of-american-lives/2014/11/07/89c55e16-637f-11e4-836c-83bc4f26eb67\\_story.html](https://www.washingtonpost.com/opinions/how-a-national-food-policy-could-save-millions-of-american-lives/2014/11/07/89c55e16-637f-11e4-836c-83bc4f26eb67_story.html); Office Commc'n, U.S. Dep't Agric., Statement from Agriculture Secretary Tom Vilsack on the Proposed FY 2015 Budget, Release No. 0033.14 (Mar. 4, 2014), <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2014/03/0033.xml>; Maggie Gosselin, Inst. For Agric. and Trade Pol'y, Beyond the USDA: How other government agencies can support a healthier, more sustainable food system (Feb. 2010), [http://www.iatp.org/files/258\\_2\\_107172.pdf](http://www.iatp.org/files/258_2_107172.pdf).
  25. For a complete list of interviews, see Appendix C.
  26. Full list in Appendix C.
  27. Mark Bittman et al., How a National Food Policy Could Save Millions of American Lives, Washington Post (Nov. 14, 2014), [https://www.washingtonpost.com/opinions/how-a-national-food-policy-could-save-millions-of-american-lives/2014/11/07/89c55e16-637f-11e4-836c-83bc4f26eb67\\_story.html?utm\\_term=.ea301bec6687](https://www.washingtonpost.com/opinions/how-a-national-food-policy-could-save-millions-of-american-lives/2014/11/07/89c55e16-637f-11e4-836c-83bc4f26eb67_story.html?utm_term=.ea301bec6687).
  28. Mark Bittman et al., Why the Next President Will Need a National Food Policy, Medium (Oct. 6, 2015), <https://medium.com/@michaelpollan/why-the-next-president-will-need-a-national-food-policy-a4e551c44cb3#.iqqhxkbk7i>; id.
  29. See, e.g., David Festa, A National Food Policy? What the Bittman-Pollan Op-Ed Missed, Envtl. Def. Fund (Nov. 14, 2014), <http://blogs.edf.org/growingreturns/2014/11/18/a-national-food-policy-what-the-bittman-pollan-op-ed-missed/>; see also, id.
  30. Jenny Hopkinson, Vilsack: The White House Needs a Food Council, Politico Pro (Sept. 8, 2016), <https://www.politicopro.com/agriculture/whiteboard/2016/09/vilsack-food-council-needed-at-the-white-house-076742>.
  31. Rénee Johnson, Cong. Research Serv., RS22600, The Federal Food Safety System: A Primer (Jan. 17, 2014), <https://www.fas.org/sgp/crs/misc/RS22600.pdf>.
  32. For example, the Natural Resources Conservation Service under the USDA is tasked with both working with farmers to voluntarily use conservation practices while enforcing soil erosion reduction requirements. See Laurie Ristino, Losing Ground: A Clarion Call for Farm Bill Reform to Ensure a Food Secure Future, 42 Colum. J. Envtl. L. 59, (Dec. 2016).
  33. In addition to the many federal agencies, “The FDA also cooperates with over 400 state agencies across the nation that carry out a wide range of food safety regulatory activities.” Rénee Johnson, *supra* note 31, at 5.
  34. Institute of Medicine and National Research Council, Committee on a Framework for Assessing the Health, Environmental, and Social Effects of the Food System 28 (Malden C. Nesheim et al. eds., National Academies Press 2015), <https://www.nap.edu/catalog/18846/a-framework-for-assessing-effects-of-the-food-system>
  35. U.S. Gov't Accountability Office., GAO-15-290, High Risk Series: An Update 262 (Feb. 2015), <http://www.gao.gov/assets/670/668415.pdf>.
  36. Id. at 262–67.
  37. Id. at 262.
  38. Rénee Johnson, *supra* note 31, at 2.
  39. Id. at 4.
  40. U.S. Food & Drug Admin., How do the activities of USDA's Food Safety Inspection Service differ from the activities of FDA's Center for Food Safety and Applied Nutrition?, <http://www.fda.gov/AboutFDA/Transparency/Basics/ucm242648.htm> (last updated Mar. 4, 2016).
  41. Food Safety & Inspection Serv., U.S. Dep't Agric., Memorandum of Understanding, MOU-225-00-2000, <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/directives/7000-series/mou-fsis-fda> (last updated Mar. 24, 2015).
  42. Rénee Johnson, *supra* note 31, at 5–6.
  43. See Reforming the Food Safety System: What If Consolidation Isn't Enough?, 125 Harvard L. Rev. 1345, 1347 (2007).
  44. EPA Protection of Environment, 40 C.F.R. §§ 1–1899; USDA Agriculture, 7 C.F.R. §§ 1–4299; USDA Animals and Animal Products, 9 C.F.R. §§ 1–599.
  45. Migrant and Seasonal Agricultural Workers Protection Act, 29 U.S.C. §§ 1801–1872 (1983); The Fair Labor Standards Act, 29 U.S.C. § 201 (1938); Immigration and Nationality Act, 8 U.S.C. §§ 1101–1351 (1965).
  46. Fed. Trade Comm'n, Advertising and Marketing, <https://www.ftc.gov/tips-advice/business-center/advertising-and-marketing>.
  47. See Maggie Gosselin, Beyond the USDA: How Other Government Agencies Can Support a Healthier, More Sustainable Food System, Inst. for Agric. & Trade Pol'y, Feb. 2010; Rénee Johnson, *supra* note 31.
  48. See U.S. Dep't Health & Human Servs., Food & Drug Admin., Food Code v (2013), <http://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM374510.pdf>; see also Enhancing Food Safety: The Role of the Food and Drug Administration 205, 212–18 (Robert B. Wallace & Maria Oria eds., 2010), <https://www.nap.edu/read/12892/>

- chapter/12.
49. Food, Drug, and Cosmetic Act, 21 U.S.C. § 374 (1938).
  50. Food Safety Modernization Act, 21 U.S.C. § 350h(b)(2)(A) (2011).
  51. Clean Water Act, 33 U.S.C. § 402 (1972).
  52. See, e.g., Conn. State Dep’t of Educ., Comparison of U.S. Department of Agriculture (USDA) Smart Snacks and Connecticut Nutrition Standards, <http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Nutrition/HFC/CNSComparisonChart.pdf> (last updated Feb. 2016).
  53. See, e.g., Philadelphia, Pa., Code § 19-4100 (2016), <https://phila.legistar.com/View.ashx?M=F&ID=4526809&GUID=545BEB2B-9D57-4919-9EED-977A807EDF76>; Navajo Nation Code Ann tit. 24, §§ 1001-07 (2014), <http://www.navajotax.org/Navajo%20Taxes/Press%20Release%20Info/Junk%20Food/Junk%20Food%20Tax%20Law.pdf>.
  54. See, e.g., N.Y.C., N.Y. Health Code §81.49 (2015), <https://www1.nyc.gov/assets/doh/downloads/pdf/about/healthcode/health-code-article81.pdf>.
  55. Safe Drinking Water Act, 42 U.S.C. § 300f (1974).
  56. Clean Water Act, 33 U.S.C. § 1362 (14).
  57. CAFOs are animal feed operations that confine animals for more than 45 days during a growing season, in an area that does not produce vegetation, and meets certain size thresholds. 40 C.F.R. § 122.23.
  58. See, e.g., 33 U.S.C. § 1344 (f)(1)(A) (exempting normal farming activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, and upland soil and water conservation practices from the permitting scheme required in order to discharge dredged or fill material; see also 33 U.S.C. § 1362 (14) (excluding agricultural stormwater discharges and return flows from irrigated agriculture from the definition of “point source” under the Clean Water Act).
  59. See generally JB Ruhl, Farms, Their Environmental Harms, and Environmental Law, 27 Ecology L. Q. 263, 328 (June 2000), <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1623&context=elq>.
  60. Envtl. Prot. Agency, Nonpoint source: Agriculture, <https://www.epa.gov/nps/nonpoint-source-agriculture> (last updated Apr. 19, 2016).
  61. Safe Drinking Water Act, 42 U.S.C. §§300f–300j-26 (2012).
  62. Margot J. Pollans, The Safe Drinking Water/Food Law Nexus, 32 Pace Envtl. L. Rev. 501, 502–04 (2015), <http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1770&context=pelr>.
  63. Id. For example, the utility that serves the City of Des Moines, Iowa has had to build new treatment facilities, at a cost of millions of dollars, in order to remove excess nutrients from water to meet the SDWA nutrient limits. See Des Moines Water Works, <http://www.dmw.com>; see also Donnelle Eller, Des Moines Water Works trial delayed until next year, The Des Moines Register (May 13, 2016), <http://www.desmoinesregister.com/story/money/2016/05/13/des-moines-water-works-trial-delayed-until-next-year/84322342/>.
  64. About the Dietary Guidelines: Process, Office of Disease Prevention and Health Promotion, <http://health.gov/dietaryguidelines/process.asp> (last updated Dec. 24, 2016).
  65. About the Dietary Guidelines: Purpose, Office of Disease Prevention and Health Promotion, <http://health.gov/dietaryguidelines/purpose.asp> (last updated Dec. 24, 2016).
  66. U.S. Dep’t Health & Human Servs. & U.S. Dep’t Agric., 2015-2020 Dietary Guidelines for Americans xiii (Dec. 2015) [hereinafter Dietary Guidelines], [https://health.gov/dietaryguidelines/2015/resources/2015-2020\\_Dietary\\_Guidelines.pdf](https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf).
  67. See generally, U.S. Dep’t Agric., Projected Spending Under the 2014 Farm Bill, <https://www.ers.usda.gov/topics/farm-economy/farm-commodity-policy/projected-spending-under-the-2014-farm-bill/> (last updated Nov. 22, 2016).
  68. Gowri Koneswaran & Danielle Nierenberg, Global Farm Animal Production and Global Warming: Impacting and Mitigating Climate Change, 116 Envtl Health Perspectives 578, 579 (May 2008).
  69. Dietary Guidelines, supra note 66, at 17. (“Lower intakes of meats, including processed meats; processed poultry; sugar-sweetened foods, particularly beverages; and refined grains have often been identified as characteristics of healthy eating patterns.”) A 2016 study published in JAMA found that consumption of foods derived from commodity crops was associated with obesity and obesity-related diseases. See Karen R. Siegel et al., Association of Higher Consumption of Foods Derived From Subsidized Commodities With Adverse Cardiometabolic Risk Among US Adults, 176 J. Am. Med. Ass’n Internal Medicine 1124 (2016).
  70. News Release, U.S. Dep’t Agric., USDA Launches ‘Know Your Farmer, Know Your Food’ Initiative to Connect Consumers with Local Producers to Create New Economic Opportunities for Communities, Release No. 0440.09, Sept. 17, 2009, <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2009/09/0440.xml>; see also, Sarah A. Low et al., Econ. Research Serv., U.S. Dep’t Agric., Trends in U.S. Local and Regional Food Systems (Jan. 2015), [https://www.ers.usda.gov/webdocs/publications/51174\\_ap068\\_report-summary.pdf](https://www.ers.usda.gov/webdocs/publications/51174_ap068_report-summary.pdf).
  71. See Food and Nutrition Serv. & Agric. Mktg. Serv., U.S. Dep’t Agric., USDA Farm to School Team: 2010 Summary Report (July 2011), [http://www.fns.usda.gov/sites/default/files/2010\\_summary-report.pdf](http://www.fns.usda.gov/sites/default/files/2010_summary-report.pdf).
  72. See Rural Dev., U.S. Dep’t Agric., The Role of Food Hubs in Local Food Marketing (Jan. 2013), <http://www.rd.usda.gov/files/>

sr73.pdf.

73. Food & Drug Admin., U.S. Dep't Health and Human Servs., FDA Food Safety Modernization Act (FSMA), <http://www.fda.gov/Food/GuidanceRegulation/FSMA/> (last updated Dec. 23, 2016).
74. See, e.g., Tom Philpott, Patty Lovera, & Judith McGeary, Comment to Will the Food Safety Modernization Act Harm Small Farms or Producers?, GRIST (Nov. 15, 2010), <http://grist.org/article/food-2010-11-15-food-fight-safety-modernization-act-harm-small-farms/full/> [hereinafter Will FSMA Harm Small Farms?].
75. Standards for the Growing, Harvesting, Packing and Holding of Produce for Human Consumption, 21 C.F.R. §§ 16,112 (proposed Jan. 16, 2013).
76. Will FSMA Harm Small Farms?, supra note 74.
77. Nat'l Sustainable Agric. Coalition, What is the Food Safety Modernization Act (FSMA)?, <http://sustainableagriculture.net/fsma/overview-and-background/>.
78. Systems thinking includes considering the relationships between various components within a system that have the potential to influence one another and planning for the effects of their interactions while avoiding the potential for unintended consequences of those decisions. See generally Donella H. Meadows, Thinking in Systems: A Primer (Diana Wright ed., 2008).
79. This paper uses a broad definition of "strategy" applying it to federal level policies, plans, laws, and directives that comprehensively address food systems issues by coordinating decision making across different agencies and governmental departments.
80. E.g., Dep't of Agric., Fisheries, & Forestry, Commonwealth of Austl., National Food Plan: Our Food Future (2013) [hereinafter Our Food Future Australia], [http://www.agriculture.gov.au/style%20library/images/daff/\\_data/assets/pdf/0011/2293328/national-food-plan-white-paper.pdf](http://www.agriculture.gov.au/style%20library/images/daff/_data/assets/pdf/0011/2293328/national-food-plan-white-paper.pdf); Welsh Assembly Gov't, Food for Wales, Food from Wales 2010/2020: Food Strategy for Wales (2010) [hereinafter Food for Wales], <http://gov.wales/docs/drah/publications/101207-food-for-wales-food-from-wales-en.pdf>; The Scottish Gov't, Recipe for Success: Scotland's National Food and Drink Policy (2009) [hereinafter Recipe for Success], <http://www.gov.scot/resource/doc/277346/0083283.pdf>; Dep't of Agric., Food, and the Marine, Ireland, Food Wise 2025 (2015), <https://www.agriculture.gov.ie/media/migration/foodindustrydevelopmenttrademarkets/agrifoodandtheeconomy/foodwise2025/report/FoodWise2025.pdf>; Cabinet Office, Strategy Unit, U.K., Food Matters: Towards a Strategy for the 21st Century (2008) [hereinafter Food Matters], <http://www.ifr.ac.uk/waste/Reports/food%20matters,%20Towards%20a%20Strategy%20for%20the%2021st%20Century.pdf>.
81. Developing countries are typically more focused on developing national food strategies centered on chronic malnutrition and hunger. While they may also incorporate goals related to growing agricultural productivity and economic development, these goals are typically seen as means to accomplish the broader nutrition and hunger related priorities. See e.g., Global Database on the Implementation of Nutrition Action, World Health Org., [https://extranet.who.int/nutrition/gina/en/advanced-search?f\[0\]=field\\_policy\\_type%3A2747](https://extranet.who.int/nutrition/gina/en/advanced-search?f[0]=field_policy_type%3A2747) (provides a listing of the various countries that have adopted National Nutrition Strategies, Actions, or Plans); See Ministry of Health of Brazil, National Food and Nutrition Policy (2013), [http://189.28.128.100/dab/docs/portaldab/publicacoes/national\\_food\\_nutrition\\_policy.pdf](http://189.28.128.100/dab/docs/portaldab/publicacoes/national_food_nutrition_policy.pdf) ("The purpose of the National Food and Nutrition Policy (PNAN) is to improve the diet, the nutrition and the health of the Brazilian population by promoting healthy and adequate eating habits, food and nutrition surveillance, and the prevention and comprehensive care of diseases related to food and nutrition."); and Ministry of Law and Justice, Republic of India, National Food Security Act of 2013, <http://indiacode.nic.in/acts-in-pdf/202013.pdf> ("An Act to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto.").
82. Marília Leão & Renato S. Maluf, Effective Public Policies and Active Citizenship: Brazil's Experience of Building a Food and Nutrition Security System 29 (2013), <https://www.oxfam.org/sites/www.oxfam.org/files/rr-brazil-experience-food-nutrition-security-190214-en.pdf>.
83. Id.
84. See generally Nordic Council of Ministers, A better life through diet and physical activity: Nordic Plan of Action on better health and quality of life through diet and physical activity (2006), <http://norden.diva-portal.org/smash/get/diva2:701045/FULLTEXT01.pdf>.
85. Ella Megan Ridgway, Mark Andrew Lawrence, & Julie Woods, Integrating environmental sustainability considerations into food and nutrition policies: insights from Australia's National Food Plan, 2 Frontiers in Nutrition 1, 8 (2015), <http://journal.frontiersin.org/article/10.3389/fnut.2015.00029/full#B12>.
86. Complete list: Ministry of Social Development and Fight against Hunger, Ministry of the Cities, Ministry of Planning, Budget and Management, Ministry of Health, Ministry of Agriculture, Livestock and Supply, Ministry of Finance, Ministry of Science and Technology, Ministry of Education, Ministry of Fisheries and Aquaculture, Ministry of National Integration, Ministry of Agrarian Development, Ministry of the Environment, Ministry of Labor and Employment, Ministry of Foreign Relations.
87. Danuta Chmielewska & Darana Souza, Int'l Pol'y Ctr. for Inclusive Growth, The Food Security Policy Context in Brazil 5–6 (2011), <http://www.ipc-undp.org/pub/IPCCountryStudy22.pdf>.
88. Knut-Inge Klepp & Jean L. Forster, The Norwegian Nutrition and Food Policy: An Integrated Policy Approach to a Public Health Problem, 6 J. of Pub. Health Pol'y. 447, 449 (1985). Norway's most recent version of its policy was adopted in 2006.
89. The Scottish Government, Recipe for Success: Scotland's National Food and Drink Policy 1 (2009), <http://www.gov.scot/resource/doc/277346/0083283.pdf>.

90. Dep't for Env't, Food, & Rural Affairs, HM Gov't, Food 2030 7 (Jan. 2010) [hereinafter Food 2030], <http://www.appg-agscience.org.uk/linkedfiles/Defra%20food2030strategy.pdf>.
91. Food for Wales, *supra* note 80, at 30–31 (2010).
92. Nancy Milio, Promoting Health Through Structural Change: Analysis of the Origins and Implementation of Norway's Farm-Food-Nutrition Policy, 15A Soc. Sci. Med. 721, 727 (1981).
93. Id.; Knut Ringen, The "New Ferment in national Health Policies: The Case of Norway's Nutrition and Food Policy, 13C Soc. Sci. Med. 33–41 (1979) (The policy attempted to address the needs of three groups – consumers in need of improved health through better nutrition, producers in need of a "secure" and "satisfactory [] level of living", and society at large in the global and local sense with regard to reducing waste and preserving natural resources."); Klepp & Forster, *supra* note 88, at 448. ("The prevalence of cardiovascular disease in Norway increased steadily after World War II, and by the early 1970s, cardiovascular disease caused more than fifty percent of all deaths for both sexes....At the same time, changes in the international balance of resources, resulting in the 1973-1974 world food crisis, led to widespread alarm in Norway.").
94. Because of its inter-sectoral nature, the Norway's National Nutrition Council continues to provide a model for a body that can serve as the "institutional coordinator[] for an integrated approach to [food] policy advice." Klepp & Forster, *supra* note 88, at 448.
95. Milio, *supra* note 92, at 727.
96. Id.
97. Id. at 728.
98. Id.
99. Id.; Klepp & Forster, *supra* note 88, at 449. (The policy's goals were divided into four broad categories: "health, global aid, food production, and rural economy[ies].").
100. World Health Org., Controlling the Global Obesity Epidemic, <http://www.who.int/nutrition/topics/obesity/en/> ("Obesity is a complex condition, one with serious social and psychological dimensions, that affects virtually all age and socioeconomic groups and threatens to overwhelm both developed and developing countries. In 1995, there were an estimated 200 million obese adults worldwide and another 18 million under-five children classified as overweight. As of 2000, the number of obese adults has increased to over 300 million. Contrary to conventional wisdom, the obesity epidemic is not restricted to industrialized societies; in developing countries, it is estimated that over 115 million people suffer from obesity-related problems.").
101. Food Matters, *supra* note 80, at i.
102. David Barling, Tim Lang, & Martin Caraher, Joined-up Food Policy? The Trials of Governance, Public Policy and the Food System, 36 Soc. Pol'y & Admin. 556, 558 (2002), [http://openaccess.city.ac.uk/479/1/Joined-up\\_food\\_policy.pdf](http://openaccess.city.ac.uk/479/1/Joined-up_food_policy.pdf).
103. The Strategy Unit was a cabinet level office with three main functions: "(1) to carry out strategy reviews and provide policy advice in accordance with the Prime Minister's policy priorities; (2) to support government departments in developing effective strategies and policies, including helping them to build their strategic capability; and (3) to identify and effectively disseminate thinking on emerging issues and challenges for the UK Government e.g. through occasional strategic audits." The Nat'l Archives, Prime Minister's Strategy Unit, <http://webarchive.nationalarchives.gov.uk/20031220221857/cabinetoffice.gov.uk/strategy/> (last updated Jan. 25, 2007).
104. Food Matters, *supra* note 80. Gordon Brown's first request to the Cabinet Strategy Unit was to assess food policy in the UK due to food safety concerns, the environmental impacts of food production, and a public health epidemic. David Barling & Tim Lang, Food Policy in the UK: Reflections on Food 2030: Before and After, 5 Food Ethics 2–3 (2010), <http://openaccess.city.ac.uk/12916/3/FEC%20Barling%20Lang%20Intro%20FdPolUK%20v5%2029%2004%2010.pdf>.
105. Food Matters, *supra* note 80, at i, v–x, 4–5. Additionally, the document detailed the major challenges facing the food and agricultural sector, including: a changing food culture; differing challenges faced by the food and drink supply chain; increasing food prices due to increases in global commodity prices; food safety; poor diet; environmental impacts associated with the food system; global and national food security; and food waste.
106. Id. at v–x.
107. Food Matters, *supra* note 80, at 111–21 ("The Government will adopt the following strategic policy objectives for food: fair prices, choice, access to food and food security through the promotion of open, competitive markets; continuous improvement in the safety of food; the changes needed to deliver healthier diets; and a more environmentally sustainable food chain.").
108. Id. at 111.
109. Id.
110. Id. at 116; Dep't for Env't, Food, & Rural Affairs, Food Matters: One Year On Annex A–B (August 2009), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228738/7599.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228738/7599.pdf).
111. Ridgway, Lawrence, & Woods, *supra* note 85, at 4. (Specifically, the stakeholder groups that were most active where the "Public Health Association of Australia (PHAA), Dietitians Association of Australia (DAA), Dairy Australia, Meat & Livestock Australia (MLA), the National Farmers Federation (NFF), and the Australian Food and Grocery Council (AFGC").).
112. Rachel Carey, Martin Caraher, Mark Lawrence, & Shannon Friel, Opportunities and Challenges in Developing a Whole-Of-Government National Food And Nutrition Policy: Lessons From Australia's National Food Plan, 19 Pub. Health Nutrition 4 (2015).

113. Id.
114. Id.
115. See Robert Lee, *The Food Strategy for Wales: A Soft Law Instrument?*, in *Environmental Law and Policy in Wales: Responding to Global and Local Challenges* 115 (Patrick Bishop & Mark Stallworthy eds., 2013); .
116. Id.
117. Id.
118. Id.
119. Food for Wales, *supra* note 80.
120. The Scottish Gov't, *Choosing the Right Ingredients* (2008), <http://www.gov.scot/Resource/Doc/210097/0055515.pdf> [hereinafter Right Ingredients] (The document requested comments on what a successful food policy would mean to families, communities, industry, and organizations and included a deadline for all submissions. It proposed several options for how to comment: online food blog, written, website, email, or by phone.). The document was centered on five objectives: "Healthier Scotland;" "Wealthier and fairer Scotland, 'which considered sustainable economic growth;'" "Safer and stronger Scotland;" "Greener Scotland;" and "Smarter Scotland - 'which addressed creating highly skilled and innovative food industry with better informed consumers." Philip Leat, Cesar Revoredo-Giha, & Chrysa Lamprinopoulou, *Scotland's Food and Drink Policy Discussion: Sustainability Issues in the Food Supply Chain*, 3 *Sustainability* 606 (2011), <http://www.mdpi.com/2071-1050/3/4/605/htm>.
121. See Right Ingredients, *supra* note 120.
122. Leat, Revoredo-Giha, & Lamprinopoulou, *supra* note 120, at 607. ("At the end of the discussion period in late April 2008, a total of 441 individuals and organizations had made written responses to the Government.").
123. *Recipe for Success*, *supra* note 80, at 2. (The five work streams were focused on: "Sustainable economic growth of the food and drink industry led by Allan Burns of Scotland Food & Drink; Healthy and sustainable food and drink choices led by Professor Annie Anderson of Dundee University; Celebrating and safeguarding Scotland's reputation as a Land of Food & Drink, supported by Martin Wishart, Restaurateur; Walking the talk – getting public sector procurement right led by Robin Gourlay of East Ayrshire Council; and Food security, access and affordability led by Reverend Professor David Atkinson.").
124. Id. at 2–3.
125. Id. at 3. The champions were as follows: Health—Professor Phil Hanlon of the University of Glasgow; Environment—Professor Jan Bebbington of the Sustainable Development Commission and St Andrew's University; Economy—Ken MacKenzie of the Scottish Retail Consortium; and Affordability—Dave Simmers of the Community Food Initiative North East. In addition, Gavin Hewitt, Chief Executive of the Scotch Whisky Association, was asked to represent the drinks industry.
126. Id.
127. See Prime Minister's Sci., Eng'g and Innovation Council, *Australian Gov't, Australia and Food Security in a Changing World* (2010), [http://www.chiefscientist.gov.au/wp-content/uploads/FoodSecurity\\_web.pdf](http://www.chiefscientist.gov.au/wp-content/uploads/FoodSecurity_web.pdf).
128. Carey, Caraher, Lawrence, & Friel, *supra* note 112. (This stands in stark contrast to the UK's decision to house the Strategy within a non-substantive cabinet level unit.).
129. Id. at 7.
130. Id. ("Some of the most powerful stakeholders in the agri-food sector in Australia were represented on the Working Group, including the National Farmers' Federation, the Australian Food and Grocery Council and Woolworths (one of two major food retailers in Australia, the other is Coles)").
131. Id.
132. Id.
133. Id.
134. Id.
135. Id. (The agencies involved in the drafting of the paper included: Department of Agriculture, Fisheries and Forestry, Department of Climate Change and Energy Efficiency, Department of Education, Employment and Workplace Relations, Department of Finance and Deregulation, Department of Foreign Affairs and Trade, Department of Families, Housing, Community Services and Indigenous Affairs, Department of Health and Ageing, Department of Infrastructure and Transport, Department of Innovation, Industry, Science and Research, Department of the Prime Minister and Cabinet, Department of Regional Australia, Regional Development and Local Government, Department of Sustainability, Environment, Water, Population and Communities, and The Treasury.)
136. Id. at 7–8. The appendix included a number of specific consultation questions for discussion and requested feedback from all stakeholders (e.g., individuals, businesses, governments, non-government groups, and communities) on specific issues regarding: the country's current approach to food policy; unidentified food security risks; consumer concerns about diet, nutrition and food safety; barriers to competitiveness, production and efficiency in the food sector; and economic and environmental sustainability.
137. Id. at 8.
138. Id. ("Of the 180 stakeholders who attended roundtable meetings, just over 60 % were from the agriculture and food industries

- (and associated parts of the food supply chain), 9 % were from consumer and community groups, and 7 % from the health sector. Other attendees came from a variety of sectors, including regional development, research and development, and education.”).
139. See Our Food Future Australia, *supra* note 80, at 8–11.
  140. Carey, Caraher, Lawrence, & Friel, *supra* note 112, at 9.
  141. Ridgway, Lawrence, & Woods, *supra* note 85, at 9; *Id.* at 10.
  142. Australian Food Sovereignty Alliance, The People’s Food Plan, [http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/11/AFSA\\_PFP\\_WorkingPaper-FINAL-15-Feb-2013.pdf](http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/11/AFSA_PFP_WorkingPaper-FINAL-15-Feb-2013.pdf); Carey, Caraher, Lawrence, & Friel, *supra* note 112, at 10.
  143. *Id.* at Appendix D (The People’s Food Plan identified the following as missing, but integral to any national food plan for Australia: (1) an “acknowledgment that the industrialised food system is socially and environmentally destructive”; (2) “recognition of the thriving fair food movement in Australia”; and (3) “recognition that the profit interests of corporations do not inevitably equate to the well-being of people and the integrity of eco-systems.”).
  144. Working Group of the Nat’l Food Sec. and Nutrition (CONSEA), Building Up the National Policy and System for Food and Nutrition Security: The Brazilian Experience 19–20 (2009), [http://www4.planalto.gov.br/consea/publicacoes/5-construcao-do-sistema-e-da-politica-nacional-de-seguranca-alimentar-e-nutricional-iica/copy\\_of\\_versao-em-ingles](http://www4.planalto.gov.br/consea/publicacoes/5-construcao-do-sistema-e-da-politica-nacional-de-seguranca-alimentar-e-nutricional-iica/copy_of_versao-em-ingles).
  145. This System is meant to “formulate and implement Food and Nutrition Security policies and plans, encourage concerted efforts between the government and civil society, and promote the follow-up, monitoring and evaluation of Food and Nutritional Security in the country.” Valéria Burity, Luisa Cruz, & Thaís Franceschini, Food and Agric. Org., Exigibilidade: Mechanisms to Claim the Human Right to Adequate Food in Brazil 16 n.16 (2011), <http://www.oda-alc.org/documentos/1340937012.pdf> [hereinafter FAO].
  146. Leão & Maluf, *supra* note 82, at 33.
  147. *Id.* at 7–8.
  148. “The 38 members of civil society represent various non-governmental organisation (NGOs), social movements and networks, labour unions, religious institutions, professional associations and academia.” Chmielewska & Souza, *supra* note 87, at 26.
  149. *Id.* at 3.
  150. Leão & Maluf, *supra* note 82, at 36–39 (“CONSEA has the status of advisory council to the President of Brazil and therefore its deliberations are of a propositional character, i.e., they are not mandatory for the Executive branch. This sensitive issue is sometimes controversial and some of the aspects involved are worth exploring in terms of learning about the challenges faced by social participation in public policy. In the case of food and nutrition security policies, it can be argued that the status of the advisory council results from the intention to adopt an intersectoral perspective in the formulation and implementation of corresponding programs. Thus, the apparent limitation of the advisory character provides for the possibility of submitting proposals - from as high as the Presidential Palace to the most different areas of government, almost all of which have their own social participation mechanisms.”).
  151. *Id.* at 36.
  152. *Id.*
  153. *Id.* at 37; FAO, *supra* note 145, at 32.
  154. Leão & Maluf, *supra* note 82, at 37–38.
  155. *Id.* at 37.
  156. Presidency of the Republic of Brazil, Decree No. 7.272 (Aug. 25, 2010). It has been recognized, however, that Brazil needs to establish a monitoring system to allow the National Council to regularly assess and evaluate the specific programs and policies. Chmielewska & Souza, *supra* note 87, at 26–27.
  157. *Id.* at 6–7.
  158. Leão & Maluf, *supra* note 82, at 60.
  159. See Food for Wales, *supra* note 80; Recipe for Success, *supra* note 80.
  160. Presidency of the Republic of Brazil, Decree No. 7.272 (Aug. 25, 2010).
  161. World Food Programme, Brazil discusses National Plan for Food and Nutritional Security (Mar. 31, 2016), <https://www.wfp.org/centre-of-excellence-hunger/blog/brazil-discusses-national-plan-food-and-nutrition-security>.
  162. *Id.*
  163. *Id.*
  164. See Food Matters, *supra* note 80, at 111–21.
  165. Food 2030, *supra* note 90, at 36.
  166. Our Food Future Australia, *supra* note 80, at 11.
  167. Food for Wales, *supra* note 80, at 31.
  168. *Id.* at 52–54.
  169. *Id.* at 52.

170. Food Matters, *supra* note 80, at 111–21.
171. Food 2030, *supra* note 90, at 51.
172. *Id.* at 49–50.
173. *Id.* at 46.
174. Our Food Future Australia, *supra* note 80, at 56.
175. Food 2030, *supra* note 90, at 74.
176. *Id.*; Our Food Future Australia, *supra* note 80, at 72.
177. See Our Food Future Australia, *supra* note 80, at 69.
178. *Id.* at 56.
179. *Id.* at 56–57. (Identifying “sustained low income” in conjunction with “disability, social and physical isolation, frailness, chronic illness, poor money management skills, [] lack of access to reasonably priced food” as well as insufficient knowledge or skills to make good food choices or to prepare food.).
180. *Id.*
181. *Id.* at 69–71.
182. Recipe for Success, *supra* note 80, at 15.
183. *Id.* at 16–17.
184. *Id.* at 6.
185. Our Food Future Australia, *supra* note 80, at 26.
186. *Id.* at 26–32.
187. *Id.* at 26.
188. *Id.* at 29.
189. *Id.* at 29–30.
190. Food for Wales, *supra* note 80, at 67.
191. *Id.* at 35.
192. *Id.*
193. *Id.* at 69.
194. Factsheet: Obama Administration Announces Additional Actions to Address the Prescription Opioid Abuse and Heroin Epidemic, The White House (Mar. 29, 2016), <https://www.whitehouse.gov/the-press-office/2016/03/29/fact-sheet-obama-administration-announces-additional-actions-address>; Presidential Memorandum – Mental Health and Substance Use Disorder Parity Task Force, The White House (Mar. 29, 2016), <https://www.whitehouse.gov/the-press-office/2016/03/29/presidential-memorandum-mental-health-and-substance-use-disorder-parity>.
195. Factsheet: Cybersecurity National Action Plan, The White House (Feb. 9, 2016), <https://www.whitehouse.gov/the-press-office/2016/02/09/fact-sheet-cybersecurity-national-action-plan>.
196. National Environmental Policy Act; National HIV/AIDS Strategy; National Strategy for Combating Antibiotic Resistant Bacteria; Czars - Ebola, Green Jobs, American Auto Industry; Federal IWG on Environmental Justice; National Health Security Strategy and Implementation Plan; National Quality Strategy/IWG on Healthcare Quality; President’s Climate Action Plan; National Commission on Terrorist Attacks Against the United States (9/11 Commission); National Strategy for Pandemic Influenza; Coordinated Framework for Regulation of Biotechnology; National Strategy for Suicide Prevention; National Strategy to Promote the Health of Honey Bees and Other Pollinators; National Strategy for a Sustainable America; National Strategy for the National Network of Fusion Centers; IWG on Food Marketed to Children; National Strategy for Electronics Stewardship; The Baker-Hamilton Commission (aka the Iraq Study Group); Blue Ribbon Commission on America’s Nuclear Future; President’s Council on Jobs and Competitiveness; President’s Council of Advisors on Science and Technology; President’s Global Development Council; National Strategy for Physical Protection of Critical Infrastructure and Key Assets; Build America Investment Initiative IWG; Interagency Committee on Disability Research; National Strategic Plan for Federal Aquaculture Research; National Strategy for Trusted Identities in Cyberspace (NSTIC); National Pain Strategy; President’s Intelligence Advisory Board and Intelligence Oversight Board; President’s Management Advisory Board; White House Initiative and President’s Advisory Commission on Asian Americans and Pacific Islanders.
197. National Health Quality Strategy; National Health Security Strategy; National HIV/AIDS Strategy; National Strategy for Antibiotic-Resistant Bacteria.
198. National Environmental Protection Act, 42 U.S.C. § 4321 et seq. (1969); Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 16, 1994); Factsheet: President Obama’s Climate Action Plan, The White House (June 25, 2013), <https://www.whitehouse.gov/the-press-office/2013/06/25/fact-sheet-president-obama-s-climate-action-plan>.
199. National Commission on Terrorist Attacks Upon the United States.
200. 42 U.S.C. § 4321 et seq.
201. Intelligence Authorization Act for Fiscal Year 2003, Pub. L. No. 107-306 (2003), <https://www.govtrack.us/congress/bills/107/>

hr4628/text.

202. Richard F. Grimmett, Cong. Research Serv., Terrorism: Key Recommendations of the 9/11 Commission and Recent Major Commissions and Inquiries 1, 35 (2004), <http://www.au.af.mil/au/awc/awcgate/crs/r132519.pdf>.
203. National Health Security Strategy, 42 U.S.C. § 300hh-1 (2013).
204. Pub. Health Emergency, National Health Security Strategy - Frequently Asked Questions, <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/faqs.aspx> (last updated Feb. 13, 2015).
205. Patient Protection and Affordable Care Act, 42 U.S.C. §§ 18001–18122 (2010).
206. Agency for Healthcare Research & Quality & U.S. Dep't Health & Human Servs., About the National Quality Strategy, <http://www.ahrq.gov/workingforquality/about.htm> (last visited Dec. 28, 2016).
207. Exec. Order No. 13676, 79 Fed. Reg. 56,931 (Sept. 23, 2014), <https://www.gpo.gov/fdsys/pkg/FR-2014-09-23/pdf/2014-22805.pdf>.
208. Exec. Order No. 13676, 79 Fed. Reg. 56,931.
209. Exec. Order No. 13676, 79 Fed. Reg. 56,931.
210. See, e.g., Exec. Order No. 13653. 3 C.F.R. § 13,653 (2013), <https://www.gpo.gov/fdsys/pkg/CFR-2014-title3-vol1/pdf/CFR-2014-title3-vol1-eo13653.pdf>.
211. Jane A. Leggett, Cong. Research Serv., R43120, President Obama's Climate Action Plan (May 28, 2014), <https://www.fas.org/sgp/crs/misc/R43120.pdf>.
212. Exec. Order No. 12898, 59 Fed. Reg. 7,629 (Feb. 11, 1994), <https://www.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice>.
213. Federal Interagency Working Group on Environmental Justice (EJ IWG), Envtl Prot. Agency, <https://www.epa.gov/environmentaljustice/federal-interagency-working-group-environmental-justice-ej-iwg> (last updated Nov. 15, 2016).
214. See, e.g., Exec. Order No. 12601. 52 Fed. Reg. 24,129 (June 23, 1987).
215. Recent Activities in Developing the National HIV/AIDS Strategy, Office of Nat'l AIDS Pol'y, The White House, <https://www.whitehouse.gov/administration/eop/onap/nhas/activities> (last visited Dec. 28, 2016).
216. National HIV/AIDS Strategy for the United States, The White House (July 2010), <https://www.whitehouse.gov/sites/default/files/uploads/NHAS.pdf>.
217. 42 U.S.C. §§ 4321-4370h.
218. Linda Luther, Cong. Research Serv., RL33152, National Environmental Policy Act: Background and Implementation (2005), [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Unit1\\_01CRSReport.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Unit1_01CRSReport.pdf).
219. 42 U.S.C. § 4332.
220. See Lance Cole, Special National Investigative Commissions: Essentials Powers and Procedures (Some Lessons from the Pearl Harbor, Warren Commission, and 9/11 Commission Investigations, Soc. Sci. Research Network (2009), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1493356](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1493356).
221. Intelligence Authorization Act for Fiscal Year 2003, Pub. L. No. 107-306, <https://www.govtrack.us/congress/bills/107/hr4628/text>.
222. Frequently Asked Questions about the 9-11 Commission, Nat'l Comm'n on Terrorist Attacks Upon the U.S., <http://govinfo.library.unt.edu/911/about/faq.htm#q1> (last visited Dec. 28, 2016).
223. Mike Enzi, Pandemic and All-Hazards Preparedness Act, S. Rep. No. 109-319 (2006), <https://www.gpo.gov/fdsys/pkg/CRPT-109srpt319/pdf/CRPT-109srpt319.pdf>.
224. Coordinated Framework for Regulation of Biotechnology, 57 Fed. Reg. 6753 (Feb. 24, 1992).
225. See Modernizing the Regulatory System for Biotechnology Products: An Update to the Coordinated Framework or the Regulation of Biotechnology, The White House, [https://www.whitehouse.gov/sites/default/files/microsites/ostp/biotech\\_coordinated\\_framework.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ostp/biotech_coordinated_framework.pdf). Draft of EPA, USDA, and FDA proposed refinements of framework for regulating existing technology.
226. Id. at 4.
227. See Id.
228. Rebecca Bratspies, Some Thoughts on the American Approach to Regulating Genetically Modified Organisms, 16 Kan. J. L. & Pub. Pol'y 393, 406 (2007).
229. Modernizing the Regulatory System for Biotechnology Products, *supra* note 225, at 5.
230. See Id.
231. See John P. Holdren et al., The White House, Improving Transparency and Ensuring Continued Safety in Biotechnology (July 2, 2015), <https://www.whitehouse.gov/blog/2015/07/02/improving-transparency-and-ensuring-continued-safety-biotechnology>.

232. Modernizing the Regulatory System for Biotechnology Products, *supra* note 225.
233. U.S. Gov't Accountability Office, GAO-15-290, High Risk Series: An Update 264 (Feb. 2015), <http://www.gao.gov/assets/670/668415.pdf>.
234. Id. at 265. ("FDA and FSIS are involved in numerous mechanisms to facilitate interagency coordination on food safety; however, existing mechanisms focus on specific issues and none provides for broad-based, centralized collaboration. For example, FDA and FSIS are collaborating with CDC through the Interagency Food Safety Analytics Collaboration to improve estimates of the most common sources of foodborne illnesses. However, this and other mechanisms do not allow FDA, FSIS, and other agencies to look across their individual programs and determine how they all contribute to federal food safety goals.").
235. Id.
236. Id.
237. See, e.g., The White House, The President's Climate Action Plan (June 2013), <https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf>.
238. Antibiotic Resistance Threats in the United States, 2013, Ctrs. for Disease Control and Prevention, <http://www.cdc.gov/drugresistance/threat-report-2013/> (last updated Jul. 17, 2014).
239. The White House, National Strategy for Combatting Antibiotic-Resistant Bacteria 1–3 (Sept. 2014), [https://www.whitehouse.gov/sites/default/files/docs/carb\\_national\\_strategy.pdf](https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf).
240. Lynton Keith Caldwell, The National Environmental Policy Act 74 (1999).
241. 42 U.S.C. § 4321 et seq.
242. Summary of the National Environmental Policy Act, Envtl. Prot. Agency, <https://www.epa.gov/laws-regulations/summary-national-environmental-policy-act> (last updated Aug. 2, 2016).
243. See, e.g., H.R. 2454, 111th Cong. (2009–2010); H.R. 759, 109th Cong. (2005); S.342, 109th Cong. (2005); H.R. 4067 (2003); S. 139 (2003).
244. President Barack Obama, Remarks by the President in the State of the Union Address at Washington, D.C. (Feb. 12, 2013), <https://www.whitehouse.gov/the-press-office/2013/02/12/remarks-president-state-union-address>.
245. Coral Davenport, Obama outlines plan to cut greenhouse gas emissions in U.S., N. Y. Times, Mar. 31, 2015.
246. Major Willie A. Gunn, From the Landfill to the Other Side of the Tracks: Developing Empowerment Strategies to Alleviate Environmental Injustice, 22 Ohio N.U. L. Rev. 1227, 1228–30 (1996).
247. U.S. Gov't Accountability Office., GAO-83-169, Siting of Hazardous Waste Landfills and Their Correlation with Economic Status of Surrounding Communities 1 (1983), <http://archive.gao.gov/d48t13/121648.pdf>.
248. Id. at 1–2.
249. See, e.g., Albert Huang, The 20th Anniversary of President Clinton's Executive Order 12898 on Environmental Justice, Nat. Res. Def. Council (Feb. 10, 2014), <https://www.nrdc.org/experts/albert-huang/20th-anniversary-president-clintons-executive-order-12898-environmental-justice>.
250. Chris Collins, Open Soc'y Inst. Pub. Health Program, Blueprint for a National AIDS Plan for the United States 5 (2007).
251. Hannah Clay Wareham, New National HIV/AIDS Strategy an Example of Homegrown Activism, Edge Media Network (Jul. 22, 2010), <http://boston.edgemedianetwork.com/news//108311>.
252. Id.
253. Id.
254. Letter from Coalition for a National AIDS Strategy to Obama Transition Team (Nov. 19, 2008), [http://otrans.3cdn.net/1815244a5b980dc9d0\\_x0m6vqds2.pdf](http://otrans.3cdn.net/1815244a5b980dc9d0_x0m6vqds2.pdf).
255. The White House, National HIV/AIDS Strategy for the United States (July 2010), <https://www.whitehouse.gov/sites/default/files/uploads/NHAS.pdf> [hereinafter National HIV/AIDS Strategy].
256. Sustainable Agriculture Research and Education, 7 U.S.C. § 5801 (1990).
257. 7 U.S.C. § 5812(b)(2).
258. 7 U.S.C. § 5812(b)(1).
259. 7 U.S.C. § 5812(b)(1)(K).
260. Agricultural Credit Insurance Fund, 7 U.S.C. § 1929(i) note (1992) (Advisory Committee).
261. 7 U.S.C. § 1929 note (Advisory Committee).
262. 7 U.S.C. § 1929 note (Advisory Committee).
263. Establishment of State technical committees, 16 U.S.C. § 3861(a) (2008).
264. 16 U.S.C. § 3861(c) (emphasis added).
265. 16 U.S.C. § 3861(c).
266. Scott Neuman, So What is an 'Executive Action' Anyway?, Nat'l Pub. Radio (Nov. 20, 2014, 1:43 PM), <http://www.npr.org/>

- sections/thetwo-way/2014/11/20/365467914/so-just-what-is-an-executive-action-anyway.
267. Exec. Order No. 13718, 81 Fed. Reg. 7441 (Feb. 9, 2016).
268. Fact Sheet: Immigration Accountability Executive Actions, The White House (Nov. 20, 2014), <https://www.whitehouse.gov/the-press-office/2014/11/20/fact-sheet-immigration-accountability-executive-action>.
269. Fact Sheet: New Executive Actions to Reduce Gun Violence and Make our Communities Safer, The White House (Jan. 4, 2016), <https://www.whitehouse.gov/the-press-office/2016/01/04/fact-sheet-new-executive-actions-reduce-gun-violence-and-make-our>.
270. See Brett LoGiurato, Boehner Plans to Sue Obama: 'We Didn't Elect A Monarch Or King', Bus. Insider (June 25, 2014), <http://www.businessinsider.com/boehner-obama-sue-lawsuit-impeachment-executive-actions-2014-6>.
271. U.S. Const. art II; Youngstown Co. v. Sawyer, 343 U.S. 579 (1952).
272. Tara L. Branum, President or King – The Use and Abuse of Executive Orders in Modern Day America, 28 J. Legis. 1, 65–69 (2002).
273. Id. at 67–70.
274. A 2001 article found that only three executive orders had been overturned in their entirety. Id. at 59. Though Obama's executive action on immigration was challenged by a recent Supreme Court case, the Court upheld the lower court's decision, which turned on procedural questions and not on the limits of executive authority. *Texas v. U.S.*, 809 F.3d 134 (5th Cir. 2015), aff'd per curiam, *United States v. Texas*, 136 S. Ct. 2271 (2016); see also Peter M. Shane, The U.S. Supreme Court's Big Immigration Case Wasn't About Presidential Power, *The Atlantic* (June 28, 2016), <http://www.theatlantic.com/politics/archive/2016/06/us-v-texas-wasn-t-really-about-presidential-power/489047>.
275. See Coral Davenport, Obama Outlines Plan to Cut Greenhouse Gas Emissions in U.S., N.Y. Times (March 31, 2015), [http://www.cleveland.com/nation/index.ssf/2015/03/obama\\_outlines\\_plan\\_to\\_cut\\_gre.html](http://www.cleveland.com/nation/index.ssf/2015/03/obama_outlines_plan_to_cut_gre.html).
276. Exec. Order No. 12898, 59 Fed. Reg. 7,629 (Feb. 16, 1994), <https://www.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice>.
277. Daniel J. Carroll & Steven J. Weber, Office of the Inspector Gen., U.S. Envtl. Prot. Agency EPA Needs to Consistently Implement the Intent of the Executive Order on Environmental Justice, (Mar. 1, 2004), <http://nepis.epa.gov/Exe/ZyPDF.cgi/900J0S00.PDF?Dockey=900J0S00.PDF>.
278. See Press Release, Executive Office of the President Council on Environmental Quality, Obama Administration Advances Efforts to Protect Health of U.S. Communities Overburdened by Pollution (Aug. 4, 2011), [https://www.whitehouse.gov/administration/eop/cea/Press\\_Releases/August\\_04\\_2011](https://www.whitehouse.gov/administration/eop/cea/Press_Releases/August_04_2011).
279. See Searching for Legislative Accountability: Rebuilding Citizen Trust in the Legislative Process, Strategic Issues Program, Univ. of Denver 16–19, 29 (2015), <http://www.du.edu/issues/media/documents/legislativeaccountability.pdf>.
280. See, e.g., Letter from the Infectious Diseases Society of America to Senator Richard Burr, Chairman of Bioterrorism and Public Health Preparedness Subcommittee (Aug. 2, 2006), [https://www.idsociety.org/uploadedFiles/IDSA/Policy\\_and\\_Advocacy/Current\\_Topics\\_and\\_Issues/Positions\\_on\\_Health\\_Reform/Letters/IDSA%20Applauds%20Senate%20Leaders%20for%20Efforts%20on%20S.3678%20\(PAHPA\)%20080206.pdf](https://www.idsociety.org/uploadedFiles/IDSA/Policy_and_Advocacy/Current_Topics_and_Issues/Positions_on_Health_Reform/Letters/IDSA%20Applauds%20Senate%20Leaders%20for%20Efforts%20on%20S.3678%20(PAHPA)%20080206.pdf).
281. See, e.g., Jeffrey Levi, TFAH Praises Signing of Pandemic and All-Hazards Preparedness Act, Focus Must Now Turn Toward Accountability and Effective Implementation, Trust for America's Health (Dec. 19, 2006), <http://healthyamericans.org/newsroom/releases/release121906.pdf>.
282. See, e.g., Public Health Preparedness in the 21st Century: Hearing Before the Subcommittee on Bioterrorism and Public Health Preparedness, S. Comm. on Health, Education, Labor, and Pensions, 109th Cong. 12 (2006) (statement of Michael C. Caldwell, Commissioner of Health, Dutchess County Health Department, and President, National Association of County and City Health Officials), <http://archived.naccho.org/press/releases/upload/CaldwellSenateTestimonyFull3-27-06.pdf>.
283. Letter from coalition of forty-four health organization and companies to Senator Tom Harkin et al. (Nov. 13, 2012), [https://www.idsociety.org/uploadedFiles/IDSA/Policy\\_and\\_Advocacy/Current\\_Topics\\_and\\_Issues/Emerging\\_Infections\\_and\\_Biothreats/Letters/To\\_Congress/PAHPRA%20sign-on%20letter%2011%2013%2012.pdf](https://www.idsociety.org/uploadedFiles/IDSA/Policy_and_Advocacy/Current_Topics_and_Issues/Emerging_Infections_and_Biothreats/Letters/To_Congress/PAHPRA%20sign-on%20letter%2011%2013%2012.pdf).
284. For example, the Prevention and Public Health Fund, created under the Affordable Care Act as a key component of the National Quality Strategy, has been reduced by one third, largely due to lack of bipartisan support. The Prevention and Public Health Fund, Health Affairs (Feb. 23, 2012), [http://www.healthaffairs.org/healthpolicybriefs/brief.php?brief\\_id=63](http://www.healthaffairs.org/healthpolicybriefs/brief.php?brief_id=63).
285. Intelligence Authorization Act for Fiscal Year 2003, Pub. L. No. 107-306, <https://www.govtrack.us/congress/bills/107/hr4628/text>.
286. Pub. Health Emergency, National Health Security Strategy and Implementation Plan, <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/strategy.aspx> (last updated Feb. 13, 2015) [hereinafter National Health Security].
287. Id.
288. Pub. Health Emergency, Frequently Asked Questions, <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/faqs.aspx> (last updated Feb. 13, 2015).
289. See, e.g., About ONAP, The White House, <https://www.whitehouse.gov/administration/eop/onap/about> (last visited Jan. 4, 2017).
290. Aaron J. Saiger, Obama's "Czars" for Domestic Policy and the Law of the White House Staff, 79 Fordham L. Rev. 2577, 2580

- (2011), <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4720&context=flr>.
291. Kim Zetter, Obama Appoints Former Microsoft Security Chief New Cybersecurity Czar, Wired (Dec. 22, 2009), <https://www.wired.com/2009/12/cyber-security-czar/>.
292. Remarks by the President on Securing Our Nation's Cyber Infrastructure, The White House (May 29, 2009), <https://www.whitehouse.gov/the-press-office/remarks-president-securin>g-our-nations-cyber-infrastructure.
293. See, e.g., Lesley Clark, In Ebola czar, Obama again looks outside his government for help, McClatchy DC (Oct. 22, 2014), <http://www.mcclatchydc.com/news/politics-government/white-house/article24775129.html> (last visited Jan. 4, 2017).
294. See Emma Roller et al., What Exactly Does a Government 'Czar' Do?, The Atlantic (Oct. 17, 2014), <http://www.theatlantic.com/politics/archive/2014/10/what-exactly-does-a-government-czar-do/439371/>.
295. Remarks by the President on Securing Our Nation's Cyber Infrastructure, *supra* note 292.
296. The Ebola Czar was appointed to quell public fears, but had few responsibilities. Curtis Silver, Obama's Ebola Czar is Just a Figurehead for Fear, Press the President, <http://www.pressthepresident.com/article/obamas-ebola-czar-is-just-a-figurehead-for-fear/188584> (last visited Jan. 4, 2017); Kelley Beaucar Vlahos, Obama to Name Longtime Political Aide as 'Ebola Czar,' Bypassing Senior Health Official, Fox News (Oct. 17, 2014), <http://www.foxnews.com/politics/2014/10/17/obama-to-name-ebola-czar.html>. See also Aaron J. Saiger, *supra* note 290.
297. The White House, National Action Plan For Combating Antibiotic Resistant Bacteria (Mar. 2015) [hereinafter Combating Bacteria Plan], [https://www.whitehouse.gov/sites/default/files/docs/national\\_action\\_plan\\_for\\_combating\\_antibiotic-resistant\\_bacteria.pdf](https://www.whitehouse.gov/sites/default/files/docs/national_action_plan_for_combating_antibiotic-resistant_bacteria.pdf).
298. Establishment of Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, U.S. Dep't of Health & Human Servs. (Sept. 15, 2015), <http://www.hhs.gov/about/news/2015/09/15/establishment-of-the-presidential-advisory-council-on-combating-antibiotic-resistant-bacteria>.
299. Charter: Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Dep't of Health & Human Servs., <http://www.hhs.gov/ash/carb/charter/index.html> (last updated Sept. 11, 2015).
300. *Id.*
301. Federal Advisory Committee Act, Pub. L. No. 92-463 (1972), <http://eca.state.gov/files/bureau/faca.pdf>.
302. *Id.* (FACA defines an "advisory committee" as "any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof" that is "established by statute or reorganization plan," "established or utilized by the President," or "established or utilized by one or more agencies.").
303. 5 U.S.C. Appendix 3 (1972). Advisory committees created by statute with the primary purpose of reporting to Congress may be exempted from FACA, as well as those that deal with national security. Wendy Ginsberg, Federal Advisory Committees: An Overview, Cong. Research Serv. 13–14 (Apr. 16, 2009), <https://fas.org/sgp/crs/misc/R40520.pdf>.
304. Federal Advisory Committee Act, Pub. L. No. 92-463.
305. Wendy Ginsberg, *supra* note 303, at 14.
306. Office of Nat'l AIDS Pol'y, The White House, Community Ideas for Improving the Response to the National HIV Epidemic: A Report on a National Dialogue on HIV/AIDS 3, [https://www.whitehouse.gov/sites/default/files/microsites/ONAP\\_rpt.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ONAP_rpt.pdf).
307. *Id.*
308. *Id.* at 8. (NHAS recommendations, for example, came from Minneapolis, San Francisco, Jackson, Mississippi, the U.S. Virgin Islands, and Albuquerque, New Mexico.).
309. PACHA and the National HIV/AIDS Strategy, AIDS.gov (Aug. 15, 2010), <https://blog.aids.gov/2010/08/pacha-and-the-national-hiv-aids-strategy.html>.
310. Douglas M. Brooks, What They're Saying: Release of the Updated National HIV/AIDS Strategy, White House: Blog (Aug. 6, 2015, 12:13 PM), <https://www.whitehouse.gov/blog/2015/08/06/what-they-re-saying-release-updated-national-hiv-aids-strategy> (Groups ranging from Advocates for Youth, to the National Black Women's HIV/AIDS Network, to the San Francisco AIDS foundation all expressed support for the strategy.).
311. Martin Gilens & Benjamin I. Page, Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens, Am. Political Sci. Ass'n 564, 572 (2014), [https://scholar.princeton.edu/sites/default/files/mgilens/files/gilens\\_and\\_page\\_2014\\_testing\\_theories\\_of\\_american\\_politics.doc.pdf](https://scholar.princeton.edu/sites/default/files/mgilens/files/gilens_and_page_2014_testing_theories_of_american_politics.doc.pdf) ("Not only do ordinary citizens not have uniquely substantial power over policy decisions; they have little or no independent influence on policy at all.")
312. Douglas M. Brooks, *supra* note 310.
313. Memorandum on Transparency and Open Government, 74 Fed. Reg. 4685 (Jan. 26, 2009), <https://www.federalregister.gov/documents/2009/01/26/E9-1777/transparency-and-open-government>.
314. Peter R. Orszag, Office of Mgmt. & Budget, The White House, Memorandum for the Heads of Executive Departments and Agencies: Open Government Directive (Dec. 8, 2009), [https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda\\_2010/m10-06.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf).
315. Tony Scott & Megan Smith, Office of Mgmt. & Budget, The White House, Memorandum for the Heads of Executive Departments and Agencies: 2016 Agency Open Government Plans 6 (Jul. 14, 2016), <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-16.pdf>.

316. U.S. Public Participation Playbook (updated monthly), <https://participation.usa.gov/>.
317. The Open Government Partnership, Third Open Government: National Action Plan for the United States of America 11–12 (Oct. 27, 2015), [https://www.whitehouse.gov/sites/default/files/microsites/ostp/final\\_us\\_open\\_government\\_national\\_action\\_plan\\_3\\_0.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ostp/final_us_open_government_national_action_plan_3_0.pdf).
318. Cynthia R. Farina et al., RegulationRoom: Field-Testing An Online Platform During USA Agency Rulemakings, Cornell Law School 9, <http://www.lawschool.cornell.edu/ceri/upload/ECEG-2012-Camera-Ready-Paper-RegulationRoom-FINAL-2.pdf>.
319. The National Health Security Strategy calls for specific actions by federal and public stakeholders, such as cancelling big public events in the event of a virus outbreak. Dep’t of Health & Human Servs., National Health Security Strategy and Implementation Plan: 2015–2018, 13–15 [hereinafter National Health Security Report], <http://www.phe.gov/Preparedness/planning/authority/nhss/Documents/nhss-ip.pdf>.
320. See, e.g., Dep’t of Health & Human Servs., National Strategy for Quality Improvement in Healthcare 9 (2011) [hereinafter Quality Healthcare Strategy], <http://www.ahrq.gov/workingforquality/reports/annual-reports/nqs2011annlrpt.pdf>.
321. See The White House, National Action Plan for Combating Antibiotic-Resistant Bacteria (2015), [https://www.whitehouse.gov/sites/default/files/docs/national\\_action\\_plan\\_for\\_combating\\_antibiotic-resistant\\_bacteria.pdf](https://www.whitehouse.gov/sites/default/files/docs/national_action_plan_for_combating_antibiotic-resistant_bacteria.pdf).
322. See id. at 47.
323. Id. at 9.
324. See id.
325. See id.
326. Exec. Order No. 13767, 184 Fed. Reg. 79 (Sept. 18, 2014).
327. The White House, National Strategy for Combating Antibiotic-Resistant Bacteria 24 (Sept. 2014) [hereinafter Combating Bacteria Strategy], [https://www.whitehouse.gov/sites/default/files/docs/carb\\_national\\_strategy.pdf](https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf).
328. See Combating Bacteria Plan, supra note 297.
329. Id. at 13.
330. See National Health Security Report, supra note 319.
331. Id. at 6.
332. Id. at 8.
333. Id. at 9.
334. See id.
335. See id.
336. Quality Healthcare Strategy, supra note 320, at 8.
337. Id.
338. Exec. Order No. 12898 § 1-103, 59 Fed. Reg. 7629 (Feb. 11, 1994).
339. Exec. Order No. 12898 § 1-102(b), 59 Fed. Reg. 7629.
340. Charter: Interagency Working Group on Environmental Justice, Envtl. Prot. Agency 3, <https://www.epa.gov/sites/production/files/2015-02/documents/iwg-charter-2011.pdf>.
341. White House Office of Nat’l AIDS Pol’y, Community Ideas for Improving the Response to the Domestic HIV Epidemic: A Report on a National Dialogue on HIV/AIDS 7 (2010) [hereinafter Community Ideas for AIDS Epidemic], [https://www.whitehouse.gov/sites/default/files/microsites/ONAP\\_rpt.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ONAP_rpt.pdf).
342. Id. at 3.
343. National HIV/AIDS Strategy, supra note 255.
344. Community Ideas for AIDS Epidemic, supra note 341, at 3.
345. Exec. Order No. 13676 § 3(c)(ii), 184 FR 56931 (Sept. 18, 2014).
346. Combating Bacteria Plan, supra note 297, at 6, 12.
347. Id.
348. National Strategy for Quality Improvement in Healthcare, 42 U.S.C. § 280j(d) (2012).
349. Intelligence Authorization Act for Fiscal Year 2003, P.L. 107-306, 116 Stat. 2383 (Nov. 27, 2002).
350. Nat’l Sec. Preparedness Grp., Bipartisan Pol’y Ctr., The Tenth Anniversary Report Card: The Status of the 9/11 Commission Recommendations, 3 (Sept. 2011) <http://bipartisanpolicy.org/wp-content/uploads/sites/default/files/CommissionRecommendations.pdf>.
351. Id.
352. Id. at 6–10.
353. White House Office of Nat’l AIDS Policy, National HIV/AIDS Strategy for the United States: Updated to 2020, (Dec. 2015)

[hereinafter National HIV/AIDS Strategy 2020], [https://www.whitehouse.gov/sites/default/files/docs/nhas\\_2020\\_federal\\_action\\_plan\\_2016-2020.pdf](https://www.whitehouse.gov/sites/default/files/docs/nhas_2020_federal_action_plan_2016-2020.pdf).

354. Id. at 1–3.

355. Id. at 19–27 (2015). (For reducing new HIV infections, the strategy aims to distribute funds proportional to the needs of communities. For improving access to care, the strategy aims to enhance delivery of medical services at the state, tribal, and local level. For reducing HIV-related inequalities, the strategy aims to help local organizations protect victims of HIV from discrimination. For achieving a more coordinated national response, the strategy aims to simplify and coordinate reporting requirements for recipients of federal funds.).

356. Press Release, S.F. AIDS Founds., National HIV/AIDS Strategy Update Acknowledges Advances; Need for More Coordinated National Response (Jul. 30, 2015), <http://saf.org/about-us/newsroom/media-releases/2015/national-hiv-aids-strategy-update.html>.

357. Douglas M. Brooks, *supra* note 310.

358. National Health Security Strategy, 42 U.S.C. § 300hh-1 (a)(1) (2013).

359. U.S. Dep’t of Health & Human Servs., National Health Security Review of the United States of America 2010–2014 [hereinafter National Health Security Review], <http://www.phe.gov/Preparedness/planning/authority/nhss/Documents/nhsr.pdf>; 42 U.S.C. § 300hh-1(a)(2) (2013).

360. Id. at i, 4; National Health Security Review 2010–2014, U.S. Dep’t of Health & Human Servs., <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/nhsr.aspx> (last updated Feb. 19, 2015).

361. National Health Security Review, *supra* note 359, at 13, 17.

362. Id. at 24, 35.

363. Other examples include the requirements under the National Historic Preservation Act, 54 U.S.C. § 300101 et seq. (1966).

364. 42 U.S.C. 4332(2)(C) (2012).

365. 40 C.F.R. § 1508.18.

366. Council on Envtl. Quality, Exec. Office of the President, A Citizen’s Guide to the NEPA 5 (Dec. 2007) [hereinafter NEPA Citizen’s Guide], [http://www.transwestexpress.net/about/docs/A\\_Citizens\\_Guide\\_to\\_NEPA.pdf](http://www.transwestexpress.net/about/docs/A_Citizens_Guide_to_NEPA.pdf).

367. Id.

368. Id. at 9.

369. Categorical Exclusion, 40 C.F.R. § 1508.4.

370. Nancy H. Sutley, Council on Envtl. Quality, Exec. Office of the President, Memorandum for Heads of Federal Departments and Agencies: Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act (Nov. 23, 2010), [https://ceq.doe.gov/ceq\\_regulations/NEPA\\_CE\\_Guidance\\_Nov232010.pdf](https://ceq.doe.gov/ceq_regulations/NEPA_CE_Guidance_Nov232010.pdf).

371. NEPA Citizen’s Guide, *supra* note 366, at 11–12.

372. Id. at 12.

373. Id. at 12–13.

374. Environmental Impact Statement, 40 C.F.R. §§ 1502.12–1502.18.

375. NEPA Citizen’s Guide, *supra* note 366, at 16.

376. Id. at 19.

377. NEPA and Agency Planning, 40 C.F.R. § 1501.4(b).

378. Guidelines for Preparing an Environmental Assessment for FEMA, Fed. Emergency Mgmt. Agency 5 (2011), [https://www.fema.gov/media-library-data/20130726-1758-25045-3460/guidelines\\_for\\_preparing\\_an\\_environmental\\_assessment\\_for\\_fema.pdf](https://www.fema.gov/media-library-data/20130726-1758-25045-3460/guidelines_for_preparing_an_environmental_assessment_for_fema.pdf).

379. NEPA Citizen’s Guide, *supra* note 366, at 13.

380. Id. at 14.

381. Id.

382. Timing of Agency Action, 40 C.F.R. § 1506.10(c).

383. NEPA Citizen’s Guide, *supra* note 366, at 14.

384. Id. at 16.

385. Linda Luther, *supra* note 218, at 12, 28.

386. See Serge Taylor, Making Bureaucracies Think: The Environmental Impact Statement Strategy of Administrative Reform 251 (1984) (Finding that NEPA’s procedures have forced agencies to confront environmental concerns, sometimes resulting in “relatively inexpensive environmental mitigation.”).

387. Linda Luther, *supra* note 218, at Summary.

388. These countries include Australia, Austria, Belgium, Canada, Denmark, Finland, Germany, Hungary, Ireland, Italy, Lithuania,

Malta, the Netherlands, New Zealand, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. The Effectiveness of Health Impact Assessment: Scope and limitations of Supporting decision-making in Europe, European Observatory on Health Sys. & Practices 38 n.3 (2007), [http://www.euro.who.int/\\_\\_data/assets/pdf\\_file/0003/98283/E90794.pdf](http://www.euro.who.int/__data/assets/pdf_file/0003/98283/E90794.pdf).

389. Janet Collins & Jeffery P. Koplan, Health Impact Assessment: A Step toward Health in All Policies, 3 J. Am. Med. Ass'n. 315, 315 (2009), <http://walkboston.org/sites/default/files/Health%20Impact%20Assessment%20-%20A%20Step%20Toward%20Health%20in%20All%20Policies.pdf>.

390. Id. at 315-17.

391. Id. at 315.

392. See Dep't of Transport, High-Speed Rail (London-West Midlands) Health Impact Assessment (Nov. 2013), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/378711/Health\\_impact\\_assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378711/Health_impact_assessment.pdf).

393. Id.

394. Id.

395. Department of Transport, High-Speed Rail (London-West Midlands) Health Impact Assessment Addendum: Euston Station and Approach Area (Sept. 2015), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460717/Health\\_impact\\_assessment\\_addendum\\_-\\_Euston\\_station\\_and\\_approach\\_area.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460717/Health_impact_assessment_addendum_-_Euston_station_and_approach_area.pdf).

396. See, e.g., National Strategy for Quality Improvement in Healthcare, 42 U.S.C. § 280j; National Health Security Strategy, 42 U.S.C. § 300hh-1.

397. See, e.g., Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Exec. Order No. 12898 § 1-103, 59 Fed. Reg. 7629.

398. See, e.g., National HIV/AIDS Strategy for the United States, *supra* note 255; National Action Plan For Combating Antibiotic Resistant Bacteria, *supra* note 297; President Obama's Climate Action Plan, *supra* note 211.

# APPENDIX A: INTERNATIONAL STRATEGIES

---

## SECTION A.1: AUSTRALIA'S NATIONAL FOOD PLAN AND THE PEOPLE'S FOOD PLAN

### I. Introduction

The Australian Government released the country's National Food Plan, the National Food Plan White Paper, in 2013. The Plan articulates Australia's vision for the food system in 2025 and identifies priorities and actions to achieve that vision.<sup>1</sup> An Australian grassroots movement crafted an alternative strategy, The People's Food Plan, because they felt that the Government-led Plan overemphasized large-scale, industry priorities while overlooking others, such as local and regional food systems and the risks posed by climate change.<sup>2</sup>

Note: The National Food Plan was an initiative of Australia's Labor Party and, following a change in Government in 2013, active federal-level progress on the Plan ceased.

### II. History

During the 2010 federal election, Australia's incumbent Labor Party promised to create a national food plan if reelected.<sup>3</sup> The Labor Party presented a national food plan as an opportunity to better integrate food policy, addressing everything from domestic food affordability and sustainability to biosecurity and global competitiveness.<sup>4</sup> The Labor Party remained in power and the Minister of Agriculture spearheaded the consultation and drafting process with funding from the Regional Food Producers Innovation and Productivity Program.<sup>5</sup>

The National Food Plan emerged from three key documents published by the Department of Agriculture over a span of several years: (1) the Issues Paper,<sup>6</sup> (2) the National Food Plan Green Paper,<sup>7</sup> and (3) the National Food Plan White Paper.<sup>8</sup> The Issues Paper, published in 2010, detailed the Government's commitment to developing a national food plan<sup>9</sup> and sought stakeholder feedback.<sup>10</sup> After weighing stakeholder feedback from the Issues Paper, the Government released the Green Paper in 2012.<sup>11</sup> The Green Paper identified the Government's seven primary objectives<sup>12</sup> and explained current policies, policy gaps, and potential Government-led actions.<sup>13</sup> The White Paper, the most comprehensive strategy document, was published in 2013.<sup>14</sup> The White Paper identified food policy priorities and governmental actions to achieve those priorities.<sup>15</sup> This iterative approach to a national food plan was intended to continue beyond the White Paper. The White Paper outlined a process by which the Government would publish a "State of the Food System" report every five years, with up-to-date information about Australia's food system and progress towards the White Paper's priorities.<sup>16</sup>

A grassroots movement, the Australian Food Sovereignty Alliance (AFSA), formed in 2010 to monitor and participate in development of the Plan.<sup>17</sup> In the lead up to the election, the AFSA penned a letter to the Minister of Agriculture asking for a participatory, inclusive, and transparent process for the creation of the Plan and, following the election, developed a website

---

<sup>1</sup> Dep't of Agric., Fisheries, & Forestry, Commonwealth of Austl., National Food Plan: Our Food Future 14 (2013) [hereinafter Our Food Future Australia], [http://www.agriculture.gov.au/style/library/images/daff/\\_data/assets/pdf/file/0011/2293328/national-food-plan-white-paper.pdf](http://www.agriculture.gov.au/style/library/images/daff/_data/assets/pdf/file/0011/2293328/national-food-plan-white-paper.pdf).

<sup>2</sup> Austl. Food Sovereignty Alliance, National Food Plan 2012 Green Paper Submission 2–3 (Sept. 2012), <http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/10/20120911-NFP-Food-Alliance-Green-Paper-Submission.pdf>.

<sup>3</sup> Lucy Knight, Labor's National Food Plan, Farm Weekly (Aug. 3, 2010), <http://www.farmweekly.com.au/news/agriculture/agribusiness/general-news/labors-national-food-plan/1902381.aspx?storypage=0>.

<sup>4</sup> Campaign Media Statement: Gilliard Labor Government Will Support Australia's Agricultural Industries into the Future, Minister of Agric., Fisheries, & Forestry, Parliament of Austl. (Aug. 17, 2010), <http://parlinfo.aph.gov.au/parlinfo/search/display/display.w3p;query=Id%3A%22library%2Fpartypol%2F1DPX6%22>.

<sup>5</sup> Budget 2010-11, Commonwealth of Austl., [http://www.budget.gov.au/2010-11/content/myefo/html/appendix\\_a\\_06.htm](http://www.budget.gov.au/2010-11/content/myefo/html/appendix_a_06.htm).

<sup>6</sup> Commonwealth of Austl., Dep't of Agric., Fisheries, & Forestry, National Food Plan: Issues Paper to Inform Development of a National Food Plan iii (June 2011) [hereinafter Australia Issues Paper], [http://www.uq.edu.au/agriculture/docs/Aus\\_Govt\\_Food\\_Plan\\_2011.pdf](http://www.uq.edu.au/agriculture/docs/Aus_Govt_Food_Plan_2011.pdf).

<sup>7</sup> Commonwealth of Austl., Dep't of Agric., Fisheries, & Forestry, National Food Plan: Green Paper 1 (July 2012) [hereinafter Australia Green Paper], [http://www.agriculture.gov.au/style%20Library/Images/DAFF/\\_data/assets/pdf/file/0009/2175156/national-food-plan-green-paper-072012.pdf](http://www.agriculture.gov.au/style%20Library/Images/DAFF/_data/assets/pdf/file/0009/2175156/national-food-plan-green-paper-072012.pdf).

<sup>8</sup> Our Food Future Australia, *supra* note 1.

<sup>9</sup> Australia Issues Paper, *supra* note 6, at iii.

<sup>10</sup> Id.

<sup>11</sup> Australia Green Paper, *supra* note 7.

<sup>12</sup> Id. at 2. 1) Support the global competitiveness and productivity growth of the food supply chain, including through research, science and innovation; 2) Reduce barriers food businesses face in accessing international and domestic markets; 3) Contribute to economic prosperity, employment and community wellbeing in regional Australia; 4) Identify and mitigate potential risks to Australia's food security; 5) Maintain and improve the natural resource base underpinning food production in Australia; 6) Reduce barriers to a safe and nutritious food supply that responds to the evolving preferences and needs of all Australians and supports population health, and 7) Contribute to global food security.

<sup>13</sup> See *id.* at 1.

<sup>14</sup> See Our Food Future Australia, *supra* note 1.

<sup>15</sup> See *id.*

<sup>16</sup> Id. at 20.

<sup>17</sup> History of AFSA, Austl. Food Sovereignty Alliance, <http://www.australianfoodsovereigntyalliance.org/about/history/>.

and Manifesto that outlined the Alliance's food system priorities.<sup>18</sup> The AFSA released formal responses to the Issues Paper and Green Paper, characterizing the consultation process as "top-down" and "tightly-controlled" and the emerging plan as "really a plan for agribusiness and retailing corporations."<sup>19</sup>

Frustrated by the Government-led process, the AFSA ultimately announced the creation of a People's Food Plan that would differ from the Government's plan in both substance and process: it would reflect the priorities of a broader range of stakeholders including community organizations and advocacy groups and, "unlike the government's process, the People's Food Plan process [would be] genuinely open, inclusive, and democratic."<sup>20</sup> The AFSA looked to the Canadian People's Food Policy Project, undertaken in Canada from 2009-2011, for inspiration and guidance.<sup>21</sup>

The People's Food Plan, too, comprises three key documents: (1) the People's Food Plan Discussion Paper,<sup>22</sup> (2) the People's Food Plan Working Paper,<sup>23</sup> and (3) the People's Food Plan Policy Directions.<sup>24</sup> The AFSA released the Discussion Paper in September 2012; the document was the centerpiece of widespread community engagement.<sup>25</sup> Following feedback on the Discussion Paper, the AFSA released the Working Paper in February 2013, laying out a strategic framework that included values and principles, challenges, key goals, and steps for meeting those goals.<sup>26</sup> In anticipation of the 2013 election, the AFSA condensed the Working Paper into a more succinct, action-oriented document, Policy Directions, released in August 2013.<sup>27</sup>

### III. Public and Stakeholder Participation

The Government-led process actively sought feedback on both the Issues Paper and the Green Paper. The Issues Paper posed 48 questions to serve as the basis for a 10-week consultation period. During this period, the Government hosted 19 roundtable meetings throughout Australia; these were attended by nearly 180 stakeholders from across the food chain.<sup>28</sup> The Government received 279 submissions from a broad range of stakeholders, including members of the public, non-profits, community groups, and industry representatives.<sup>29</sup> To the extent feasible, the Government posted these submissions online.<sup>30</sup> The Government also held a public webcast panel discussion and took questions and comments from stakeholders.<sup>31</sup> A number of Government-led entities, including the National Food Policy Working Group, the Food Processing Industry Strategy Group, the Ministerial Advisory Council on Regional Australia, also provided input.<sup>32</sup> A Department of Agriculture webpage provided a high-level summary of the feedback received during the consultation period.<sup>33</sup>

The feedback on the Issues Paper informed the Green Paper, which then led to additional public engagement and feedback. The Green Paper highlighted specific areas where the Government sought greater information and input with textboxes and targeted questions throughout the document.<sup>34</sup> The consultation process following the Green Paper included 28 public meetings attended by more than 700 members of the public, eight "CEO-level" roundtable meetings attended by more than 120 individuals working across the food chain, 401 written submissions totaling more than 5,000 pages, and posts to the official National Food Plan blog.<sup>35</sup> The Green Paper Consultation Summary Report summarized this feedback.<sup>36</sup>

The AFSA challenged the Government-led consultation process on a number of accounts. First, the roundtable meetings invited industry representatives while members of the public had to apply to attend. When members of the public showed up at the roundtable meetings without having applied, they were kept out.<sup>37</sup> The Government did not publish the meeting minutes or attendee lists from these meetings.<sup>38</sup> During the public meetings, the agenda was predetermined and opportunities for input

<sup>18</sup> Id.

<sup>19</sup> Nicholas Rose & Michael Croft, The Draft National Food Plan: Putting Corporate Hunger First, The Conversation (July 20, 2012, 12:41 AM), <https://theconversation.com/the-draft-national-food-plan-putting-corporate-hunger-first-8342>.

<sup>20</sup> History of AFSA, *supra* note 17.

<sup>21</sup> Id.

<sup>22</sup> Austl. Food Sovereignty Alliance, A People's Food Plan for Australia – Values, Principles, and Best Practice: A Discussion Draft (Sept. 2012) [hereinafter People's Food Plan Discussion], <http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/10/20120914-PeoplesFoodPlan-DiscussionPaper.pdf>.

<sup>23</sup> Austl. Food Sovereignty Alliance, The People's Food Plan Working Paper (Feb. 2013) [hereinafter Working Paper], [http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/11/AFSA\\_PFP\\_WorkingPaper-FINAL-15-Feb-2013.pdf](http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/11/AFSA_PFP_WorkingPaper-FINAL-15-Feb-2013.pdf).

<sup>24</sup> Austl. Food Sovereignty Alliance, The People's Food Plan: Policy Directions (Aug. 2013) [hereinafter Policy Directions], <http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/10/PFP-policy-august13.pdf>.

<sup>25</sup> See People's Food Plan Discussion, *supra* note 22.

<sup>26</sup> See Working Paper, *supra* note 23.

<sup>27</sup> See Policy Directions, *supra* note 24.

<sup>28</sup> Australia Green Paper, *supra* note 7, at 22.

<sup>29</sup> Id.

<sup>30</sup> Issues Paper Submissions, Commonwealth of Austl., Dep't of Agric., Fisheries, & Forestry, [http://www.agriculture.gov.au/ag-farm-food/food/publications/national\\_food\\_plan/issues-paper/submissions-received](http://www.agriculture.gov.au/ag-farm-food/food/publications/national_food_plan/issues-paper/submissions-received).

<sup>31</sup> Australia Green Paper, *supra* note 7, at 22.

<sup>32</sup> Id.

<sup>33</sup> Summary of Stakeholder Feedback in Response to the Issues Paper, Commonwealth of Austl., Dep't of Agric., Fisheries, & Forestry, [http://www.agriculture.gov.au/ag-farm-food/food/publications/national\\_food\\_plan/issues-paper/summary-of-stakeholder-feedback](http://www.agriculture.gov.au/ag-farm-food/food/publications/national_food_plan/issues-paper/summary-of-stakeholder-feedback).

<sup>34</sup> See Australia Green Paper, *supra* note 7.

<sup>35</sup> National Food Plan: Green Paper Consultation Summary Report, Commonwealth of Austl., Dep't of Agric., Fisheries, & Forestry 1 (May, 2013), [http://www.agriculture.gov.au/Style%20Library/Images/DAFF/\\_data/assets/pdffile/0010/2292958/green-paper-consultation-summary-report.pdf](http://www.agriculture.gov.au/Style%20Library/Images/DAFF/_data/assets/pdffile/0010/2292958/green-paper-consultation-summary-report.pdf).

<sup>36</sup> See *id.*

<sup>37</sup> Working Paper, *supra* note 23, at 67–68.

<sup>38</sup> Id.

<sup>39</sup> Austl. Food Sovereignty Alliance, Issues Paper to Inform Development of a National Food Plan: Submission, 3 (Sept. 2, 2011), [http://www.agriculture.gov.au/SiteCollectionDocuments/ag-food/food/national-food-plan/submissions-received/Food\\_Alliance.pdf](http://www.agriculture.gov.au/SiteCollectionDocuments/ag-food/food/national-food-plan/submissions-received/Food_Alliance.pdf).

were too narrow.<sup>40</sup> Indeed, it was “this absence of true participatory democracy” that led the AFSA to launch its own process and plan.<sup>41</sup>

By contrast, the AFSA crafted a participation process for the People’s Food Plan that was deliberately open-ended. Over the course of three months in late 2012, over 600 Australians participated in 40 forums held at community centers and kitchen tables across the country.<sup>42</sup> Equipped with the People’s Food Plan Discussion Paper, participants discussed and debated the plan’s 1) values and principles, 2) goals and targets, and 3) proposed actions.<sup>43</sup> Notes from these meetings directly informed the priorities – and, in some instances, the substantive content – found in the People’s Food Plan Working Paper.<sup>44</sup>

#### IV. Structure

The Department of Agriculture coordinated and published all documents included in the National Food Plan, with input from several other key federal departments.<sup>45</sup> In drafting the Issues Paper, the Minister of Agriculture also formed a Food Policy Working Group to provide strategic advice. The 13-member Group included just one consumer representative and one health representative; the rest of the members came from industry, including powerful interests such as the National Farmers’ Federation and the Australian Food and Grocery Council.<sup>46</sup> The AFSA and the Public Health Association of Australia publicly criticized the Group and its ability to represent Australians’ food system interests.<sup>47</sup>

The White Paper also envisioned the creation of an Australian Council on Food to coordinate implementation of the Plan, but not make policy.<sup>48</sup> The Council’s membership would include representatives from government, industry, public health, and community groups.<sup>49</sup> To ensure consistency across all levels of government, the federal Government would facilitate coordination between the Council and state and territorial governments, as well as other entities.<sup>50</sup> However, at present, there is no record of creation of the Australian Council on Food.

Under the People’s Food Plan, the Working Paper finds that the Department of Health should lead food policy, not the Department of Agriculture.<sup>51</sup> The People’s Food Plan also envisions the creation of a National Food Council, but specifies that the Council should give “equal participation and real decision-making powers to the community, health, environment, family farming, consumer and diverse food business sectors, as it does to corporate agri-business and large retail.”<sup>52</sup> The Council would also work closely with local and regional food policy councils.<sup>53</sup>

#### V. Key Priorities

While the Government’s National Food Plan emphasizes private sector growth, it also includes priorities related to public health and sustainable food production. In the introduction, the Government defines the Plan’s role as “ensuring that Australia has a sustainable, globally competitive and resilient food supply that supports access to nutritious and affordable food,” noting that health-related challenges require a “specific, strong and multifaceted focus separate from, but complementary to, the [Plan].”<sup>54</sup> The Plan is split into four sections: 1) growing exports, 2) thriving industry, 3) people, and 4) sustainable food.<sup>55</sup> Each section contains between two (sustainable food) and eight (thriving industry) goals to achieve by 2025, as well as key Government action steps and investments.<sup>56</sup>

The People’s Food Plan begins by affirming its commitment to food sovereignty, an approach that “seeks to reinsert everyday people back into the centre [sic] of the food system.”<sup>57</sup> The Plan’s values, principles, and goals all follow from this core tenant.<sup>58</sup>

<sup>40</sup> Working Paper, *supra* note 23, at 67–68.

<sup>41</sup> Id. at 68.

<sup>42</sup> Id. at 10.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> The Issues Paper identifies 13 federal departments: Department of Agriculture; Department of Climate Change and Energy Efficiency; Department of Education, Employment, and Workplace Relations; Department of Finance and Deregulation; Department of Foreign Affairs and Trade; Department of Families, Housing, Community Services and Indigenous Affairs; Department of Health and Ageing; Department of Infrastructure and Transport; Department of Innovation, Industry, Science and Research; Department of the Prime Minister and Cabinet; Department of Regional Australia, Regional Development and Local Government; Department of Sustainability, Environment, Water, Population and Community; and The Treasury.

<sup>46</sup> Rachel Carey et al., Opportunities and Challenges in developing a Whole-of-Government National Food and Nutrition Policy: Lessons from Australia’s National Food Plan, 19 Pub. Health Nutrition 1, 7 (2015).

<sup>47</sup> ‘Big Food’ Interests Dominate New Advisory Group, Austl. Food Sovereignty Alliance (Dec. 17, 2010), <http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2011/01/20111217-Media-Release-on-the-Food-Policy-Advisory-Group.pdf>; New Food Policy Group “Stacked” with Industry, Crikey (Dec. 10, 2010), <https://blogs.crikey.com.au/croakey/2010/12/01/new-food-policy-advisory-group-stacked-with-industry>.

<sup>48</sup> Our Food Future Australia, *supra* note 1, at 7, 19–20.

<sup>49</sup> Id. at 19.

<sup>50</sup> Id.

<sup>51</sup> Working Paper, *supra* note 23, at 82.

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> Our Food Future Australia, *supra* note 1, at 14.

<sup>55</sup> Id. at 8–11.

<sup>56</sup> Id.

<sup>57</sup> Working Paper, *supra* note 23, at 11.

<sup>58</sup> Id. at 11–13.

The Plan explores seven issues – which emerged from the People’s Food Plan forums – in depth: 1) food sovereignty for indigenous peoples, 2) healthy eating, 3) a sustainable farming future, 4) planning fair food systems, 5) building fair food systems, 6) fair trade, and 7) food democracy.<sup>59</sup> Each issue is further divided and discussed in terms of “what people want,” “what we can do,” and “inspiring models” of what has worked well in Australia and internationally.<sup>60</sup> In addition, the Plan includes an appendix that compares the Government’s National Food Plan with the People’s Food Plan, looking at everything from “understanding of ‘sustainability’” to “scope of change required,”<sup>61</sup> as well as an appendix that discusses “what is missing from the National Food Plan.”<sup>62</sup>

## VI. Analysis

From the outset, Australia’s National Food Plan and process focused on maximizing agricultural productivity and growing exports. This became evident through the Department of Agriculture’s coordination and leadership role, the makeup of the Food Policy Working Group, and the emphasis of the Plan’s foundational documents, the Issues Paper and Green Paper. Indeed, the Government was careful to disclaim, with the release of the White Paper, that “the role of the National Food Plan is not to solve every challenge with some connection to the food system.”<sup>63</sup>

Yet, a number of stakeholders, particularly at the grassroots level, saw the creation of a national food plan as an opportunity for a much broader conversation. The AFSA formed, in large part, to try to have this conversation, first through official channels and then, ultimately, through a parallel process. Though the official process offered a number of opportunities for input and dialogue, the AFSA and other stakeholders felt that the agenda was predetermined and the space for feedback was too narrowly defined. They sought a more open-ended, transparent process, and one that included key issues like climate change and obesity.

Since 2013, there has been little activity on either the National Food Plan or the People’s Food Plan. The National Food Plan began as a campaign promise, and was drafted by an administration no longer in power. The Plan relied heavily on existing programs in its implementation, though it also outlined new programs such as the \$28.5 million Asian Food Market Research Fund.<sup>64</sup> It aimed to set the federal agenda for activities like harmonizing regulation and focusing trade negotiations, which are administration-dependent. Federal progress on the Plan came to a halt with a change of government in 2013; the Plan is now archived on the Government’s website.<sup>65</sup> Though the People’s Food Plan included policy and program ideas that did not rely on the federal government, the AFSA has not published anything about the People’s Food Plan since 2014.<sup>66</sup>

<sup>59</sup> Id.

<sup>60</sup> Id. at 27–29, 36–40, 44–49, 56–60, 65, 69–70.

<sup>61</sup> Id. at 81.

<sup>62</sup> Id. at 83.

<sup>63</sup> Our Food Future Australia, *supra* note 1, at 14.

<sup>64</sup> Id. at 8–11, 30–35.

<sup>65</sup> National Food Plan, COMMONWEALTH OF AUSTL., DEP’T OF AGRIC., FISHERIES, & FORESTRY (July 19, 2013) [http://www.agriculture.gov.au/ag-farm-food/publications/national\\_food\\_plan](http://www.agriculture.gov.au/ag-farm-food/publications/national_food_plan).

<sup>66</sup> Blog: People’s Food Plan, AUSTL. FOOD SOVEREIGNTY ALLIANCE <http://www.australianfoodsovereigntyalliance.org/blog/category/topics/peoples-food-plan-topics/>.

## SECTION A.2: BRAZIL'S NATIONAL FOOD AND NUTRITION SECURITY SYSTEM AND POLICY

### I. Introduction

Over two decades of social mobilization and advocacy from a vast range of stakeholders culminated in a comprehensive Brazilian food policy system, which includes the National Food and Nutritional Security Policy. The National Policy was established by decree in 2010.<sup>1</sup> It provides a general policy framework “to promote food and nutritional security and to ensure the human right to adequate food” and is implemented through a four-year National Plan on Food and Nutritional Security.<sup>2</sup> Like the rest of Brazil’s food policy system, the National Policy and the National Plan reflect extensive civil society input and are constantly evolving to reflect the needs and priorities of civil society.

### II. History

Brazil’s transition from military dictatorship to civilian rule during the 1980s opened up new channels for public participation and dialogue around social issues.<sup>3</sup> This was reflected in the country’s approach to food policy. In 1986, nongovernmental organizations and social movements successfully organized a National Food and Nutrition Conference, which concluded with a report proposing the creation of a “National Food and Nutrition Security System” as well as a national nutrition policy and a coordinating council.<sup>4</sup> Civil society groups also led the effort to establish the National Food and Security Council (CONSEA) in 1993.<sup>5</sup> Composed of civil society and government representatives, CONSEA served as an advisory body to the President.<sup>6</sup> It was dissolved in 1995, but reestablished in 2003 and continues to play a critical role in shaping the country’s food and nutrition security policy.<sup>7</sup>

In 1994, Brazil hosted its first National Conference on Food Security, attended by 2,000 participants from across the country.<sup>8</sup> Subsequent National Conferences on Food Security – in 2004, 2007 and 2011 – have engaged roughly the same number of participants.<sup>9</sup> These Conferences bring together representatives of government and civil society, with greater representation by the latter, to discuss food and nutritional security priorities and inform CONSEA’s work.<sup>10</sup>

The movement towards a national food and nutritional security policy continued throughout the 1990s. In 1998, civil society groups established the Brazilian Forum on Food and Nutrition Sovereignty and Security, which, to this day, brings together individuals, organizations, and social movements working on food sovereignty.<sup>11</sup> The Forum called for the reestablishment of CONSEA.<sup>12</sup> Then, in 1999, the Ministry of Health released its first National Food and Nutrition Policy, which sought to integrate efforts to establish health and nutrition as human rights.<sup>13</sup>

By the time President Lula came into office in 2003, the food and nutrition security movement, deeply embedded in civil society, already had a strong foundation. In his inaugural address, President Lula proclaimed his commitment to ensuring that all Brazilians could eat three meals a day<sup>14</sup> and subsequently launched the Zero Hunger Project, an executive strategy to fight hunger.<sup>15</sup> The strategy was based off a policy proposal development by a nongovernmental organization, Citizenship Institute.<sup>16</sup> While Zero Hunger introduced some new initiatives, it also sought to build on existing efforts and foster greater coordination among them.<sup>17</sup>

The 2000s brought three key pieces of federal legislation which significantly advanced Brazil’s food policy efforts and agenda. The first, the Framework Law on Food and Nutrition Security (LOSAN), was passed by the National Congress in 2006.<sup>18</sup> LOSAN provided for the establishment of the country’s overarching food and nutrition security apparatus, the National Food and Nutrition Security System (SISAN).<sup>19</sup> SISAN is made up of five components (discussed below) that, together, coordinate policy

<sup>1</sup> Decreto No. 7.272, de 25 de Agosto de 2010. Diário Oficial da União [D.O.U.] de 26.8.2010 (Braz.).

<sup>2</sup> Danuta Chmielewska & Darana Souza, Int'l Pol'y Ctr. for Inclusive Growth, The Food Security Policy Context in Brazil 5–6 (2011), <http://www.ipc-undp.org/pub/IPCCountryStudy22.pdf>.

<sup>3</sup> Marília Leão & Renato S. Maluf, Effective Public Policies and Active Citizenship: Brazil's Experience of Building a Food and Nutrition Security System 15 (2013), <https://www.oxfam.org/sites/www.oxfam.org/files/rr-brazil-experience-food-nutrition-security-190214-en.pdf>.

<sup>4</sup> Id. at 17.

<sup>5</sup> Chmielewska & Souza, *supra* note 2, at 1.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id. at 2.

<sup>9</sup> Id. at 26.

<sup>10</sup> Id. at 27.

<sup>11</sup> Id. at 2.

<sup>12</sup> Id.

<sup>13</sup> National Food and Nutrition Policy, Brazilian Gov't 6 (2013), [http://bvsms.saude.gov.br/bvs/publicacoes/national\\_food\\_nutrition\\_policy.pdf](http://bvsms.saude.gov.br/bvs/publicacoes/national_food_nutrition_policy.pdf); The Case of Brazil: National Food and Nutrition Policy, Brazil Ministry of Health 11 (2006), <http://www.paho.org/carmen/wp-content/uploads/2012/06/Policy-Observatory-Brazil-Case-Study.pdf>.

<sup>14</sup> Chmielewska & Souza, *supra* note 2, at 2.

<sup>15</sup> Leão & Maluf, *supra* note 3, at 18.

<sup>16</sup> Id.

<sup>17</sup> Chmielewska & Souza, *supra* note 2, at 4.

<sup>18</sup> Lei No. 11.346, de 15 de setembro de 2006 (Braz.).

<sup>19</sup> Leão & Maluf, *supra* note 3, at 28.

efforts across different sectors and levels of government.<sup>20</sup> LOSAN also enumerated principles and guidelines that powerfully shape the work of each component, as well as the system on the whole.<sup>21</sup> Then, in 2007, the National Congress passed a decree which established the National Food and Nutritional Security Policy as well as guidelines for the National Food and Nutritional Security Plan for implementation of the Policy.<sup>22</sup> Finally, Brazil's 2010 constitutional amendment enshrined the right to food as one of Brazil's fundamental social rights (others include health, education, and housing).<sup>23</sup> As a result, Brazil has an active obligation to implement policies and programs that guarantee this right.<sup>24</sup>

Following the guidelines outlined in the National Food and Nutritional Security Policy, Brazil published its first implementation Plan in 2011<sup>25</sup> and is currently in the process of drafting its second Plan.<sup>26</sup>

### **III. Stakeholder and Public Participation**

Since the 1980s, Brazilian civil society and government have worked through a continuously evolving framework of participatory forums to chart a Brazilian food policy.<sup>27</sup> These forums exist at the national, state, and local levels, and are designed to facilitate public engagement, as well as policy creation and implementation.<sup>28</sup> Indeed, one of SISAN's four founding principles is "social participation in the formulation, implementation, follow-up, monitoring, and control of food and nutrition security policies and plans at all government levels."<sup>29</sup> Each component of SISAN embodies this principle, as discussed in greater detail below. Because this commitment to civil society engagement ultimately puts civil society members at the frontlines of drafting, implementing, and monitoring policy, the country has recognized the need to invest in the capacity of civil society to perform these functions.<sup>30</sup>

### **IV. Structure**

SISAN is made up of five components that, together, coordinate food and nutrition security policy across multiple levels of government and different sectors: 1) National Conferences on Food and Nutrition Security, 2) the National Council on Food and Nutrition Security (CONSEA), 3) the Inter-Ministerial Food and Nutrition Security Chamber, 4) food and nutrition security entities at all levels of government, and 5) private institutions.<sup>31</sup>

#### **A. National Conference on Food and Nutrition Security**

The National Conference is a forum that convenes every four years to directly inform the priorities of the National Policy and Plan and evaluate SISAN.<sup>32</sup> Two-thirds of participants come from civil society and one-third from government, and each one of Brazil's federative states is represented.<sup>33</sup> National Conference delegates are nominated at smaller conferences held at the state, district, and local levels, where local issues and priorities are discussed.<sup>34</sup> Attendance at past Conferences has been upwards of 2,000.<sup>35</sup>

#### **B. National Council on Food and Nutrition Security (CONSEA)**

CONSEA takes deliberations from the National Conferences and produces proposals for the Inter-Ministerial Chamber on Food and Nutrition Security.<sup>36</sup> Located within the Presidential Palace, CONSEA also serves as an advisory body to the President.<sup>37</sup> One-third of its members are high-level government officials responsible for areas related to food security and two-thirds come from civil society, including non-governmental organizations, religious institutions, and professional associations.<sup>38</sup> CONSEA's President is chosen by civil society representatives, while the General Secretariat is headed by

<sup>20</sup> Id. at 30.

<sup>21</sup> Id. at 28.

<sup>22</sup> Chmielewska & Souza, *supra* note 2, at 5.

<sup>23</sup> Id. at 33.

<sup>24</sup> Id. at 6.

<sup>25</sup> Leão & Maluf, *supra* note 3, at 33.

<sup>26</sup> Brazil Discusses National Plan for Food and Nutrition Security, World Food Programme (Mar. 31, 2016), <https://www.wfp.org/centre-of-excellence-hunger/blog/brazil-discusses-national-plan-food-and-nutrition-security>.

<sup>27</sup> Brazil Discusses National Plan for Food and Nutrition Security, World Food Programme (Mar. 31, 2016), <https://www.wfp.org/centre-of-excellence-hunger/blog/brazil-discusses-national-plan-food-and-nutrition-security>.

<sup>28</sup> Id. at 23.

<sup>29</sup> Leão & Maluf, *supra* note 3, at 28.

<sup>30</sup> Id. at 36.

<sup>31</sup> Id. at 30.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Building Up the National Policy and System for Food and Nutrition Security, Nat'l Council on Food and Nutrition Sec. 55 (2009), [https://www.fao.org/download/Seguranca\\_Alimentar\\_Ingles.pdf](https://www.fao.org/download/Seguranca_Alimentar_Ingles.pdf).

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> Leão & Maluf, *supra* note 3, at 36–37.

<sup>38</sup> Building Up the National Policy and System for Food and Nutrition Security, *supra* note 34, at 56.

a Ministry representative.<sup>39</sup> In addition, CONSEA includes roughly a dozen observers from international organizations and other national councils.<sup>40</sup>

#### C. Inter-Ministerial Food and Nutrition Security Chamber

The Inter-Ministerial Food and Nutritional Security Chamber is an inter-ministerial body that coordinates policy across various ministries and collaborates with CONSEA to transform proposals into national policies, including the National Food and Security Nutrition Plan.<sup>41</sup> Located within the Ministry of Social Development and the Fight Against Hunger, the Chamber's membership comprises the ministries and special secretaries responsible for areas related to food and nutrition security.<sup>42</sup> The Chamber also coordinates with state authorities in developing their food and nutrition security policies and plans.<sup>43</sup>

#### D. State and local food and nutrition security entities

As a Federative Republic committed to decentralization, Brazil seeks to replicate the above national food and nutrition security governance model at the state and municipal levels.<sup>44</sup> Each state, as well as the Federal District, has a Council on Food and Nutrition Security.<sup>45</sup> As of 2009, state coordination bodies, modeled on the Chamber at the national level, were "still incipient."<sup>46</sup> Likewise, the existence of councils and coordination bodies at the municipal level was "rather initial and limited."<sup>47</sup>

#### E. Private Institutions

Participation in SISAN is open to private institutions, whether for profit or nonprofit, which adhere to SISAN's founding principles and guidelines.<sup>48</sup>

### V. Key Priorities

Overall, the National Food and Nutritional Security Policy aims to ensure food and nutritional security and the right to food. Its specific objectives, as defined under LOSAN, are to: "1) identify, analyze, disseminate and act on the factors that influence food and nutritional insecurity in Brazil; 2) link the programs and actions of various sectors to respect, protect, promote and provide the human right to adequate food...; 3) promote sustainable agro-ecological systems for food production and distribution that respect biodiversity and strengthen family agriculture, indigenous peoples and traditional communities...; 4) include respect for food sovereignty and the guarantee of the human right to adequate food, including access to water, as a state policy, and [...] promote them in international negotiations and cooperation."<sup>49</sup>

The first National Food and Nutritional Security Plan covered a broad range of issues, but focused on reducing poverty, social inequality, food insecurity, hunger, and child mortality.<sup>50</sup> The second Plan will likely focus on addressing obesity, increasing healthy food production, distribution, and consumption, and reducing food insecurity among specific populations, such as indigenous peoples.<sup>51</sup>

### VI. Analysis

Brazil's elaborate National Food and Nutrition Security System embeds participatory democracy and civil society engagement into every level of policy and decision making. This reflects the country's broader commitment to such ideals, as well as the critical importance of food and nutrition security as a mobilizing issue. The National Food and Nutritional Security Policy and its accompanying Plan reflect the direct input of civil society, represented and refined through a number of forums and advisory bodies at every level of government. The Policy and Plan also draw force from Brazil's constitutionally-recognized right to food, which obligates the government to ensure food security for its citizens.

<sup>39</sup> Leão & Maluf, *supra* note 3, at 36.

<sup>40</sup> *Id.*

<sup>41</sup> Building Up the National Policy and System for Food and Nutrition Security, *supra* note 34.

<sup>42</sup> *Id.* at 57.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 60.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Leão & Maluf, *supra* note 3, at 30.

<sup>49</sup> Chmielewska & Souza, *supra* note 2, at 5–6.

<sup>50</sup> Brazil Discusses National Plan for Food and Nutrition Security, *supra* note 26.

<sup>51</sup> *Id.*

## SECTION A.3: NORWAY'S FOOD AND NUTRITION POLICIES

### I. Introduction

The Norwegian Government formally launched its national food policy in 1975 with the publication of a white paper. The paper called for a coordinated and comprehensive plan to address the country's agricultural, food, and health issues. Two subsequent white papers were published in 1981 and 1992 with the continued goal of a national food policy that could create change by influencing consumption. The most recent policy, the Norwegian Action Plan on Nutrition, focused on changing the Norwegian diet and reducing social inequalities in diet through a collaborative and inter-ministerial implementation process.

### II. History

Norway was the first country to follow the Food and Agriculture Organization of the United Nations' (FAO) 1946 recommendation that countries form intergovernmental national nutrition councils to focus on domestic and international food issues.<sup>1</sup> Since its founding in 1946, Norway's National Nutrition Council (NCC) has been examining the connections between the country's farm, food, and health problems and advocating for holistic policy approaches.<sup>2</sup> In 1963, the Chairman of the NCC called for a "farm-food-nutrition policy" to address the country's rising rates of cardiovascular disease.<sup>3</sup> When the proposal failed to take hold, the NCC began lobbying members of Parliament who, in turn, lobbied ministers, gaining the attention of the Cabinet, press, and public.<sup>4</sup> The NCC also hosted a national conference in 1971 to build support for a national policy.<sup>5</sup> The conference was attended by members of Parliamentary Committees, Cabinet ministers, academics, representatives from farm and industry groups, and the press.<sup>6</sup>

Yet, it was ultimately a world food crisis from 1973-74 that spurred the Government into action.<sup>7</sup> The world food crisis highlighted the country's dependence on food imports and its declining farm economy.<sup>8</sup> In 1975, the Ministry of Agriculture published a white paper calling for a comprehensive national food and nutritional policy.<sup>9</sup> The paper represented a cooperative effort between experts in the agriculture and public health sectors and outlined four major goals: (1) increased consumption of healthy food; (2) development of food production guidelines; (3) increased domestic independence from food importation; and (4) rural agricultural development.<sup>10</sup> These goals were to "be achieved through a variety of implementation strategies to change the process of food production and distribution, and to provide consumers with information and incentives to choose a health-enhancing diet."<sup>11</sup>

Over the next two decades, the Ministry of Health and Social Affairs published two additional white papers that focused on the link between nutrition and health.<sup>12</sup> The first, published in 1981, proposed a range of measures – legal, economic, organizational, and educational – to improve Norwegians' diet.<sup>13</sup> During the 1980s, nutrition was treated as a problem of knowledge and behavior, rather than food supply.<sup>14</sup> Implementation strategies therefore tended to emphasize health education and individual responsibility.<sup>15</sup> The next white paper, published in 1993, provided greater recognition to diet-related disease and environmental sustainability.<sup>16</sup>

Norway's most recent policy document, the Norwegian Action Plan on Nutrition (2007-2011): Recipe for a Healthier Diet, was developed through a collaborative effort involving 12 ministries.<sup>17</sup> The Action Plan served as a policy framework for relevant ministries and included 73 specific measures, by ministry, to improve diet and nutrition.<sup>18</sup> However, it also focused on two primary goals: (1) align the Norwegian diet with the recommendations of health authorities and (2) reduce social inequalities in diet.<sup>19</sup> In 2012, the Directorate of Health within the Ministry of Health and Care Services commissioned an evaluation of the

<sup>1</sup> Nancy Milio, Promoting Health Through Structural Change: Analysis of the Origins and Implementation of Norway's Farm-Food-Nutrition Policy, 15A Soc. Sci. Med. 721, 725 (1981).

<sup>2</sup> Id.

<sup>3</sup> Id. at 727.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id. at 728.

<sup>8</sup> Id. at 2.

<sup>9</sup> Knut Ringen, The Norwegian Food and Nutritional Policy, 67 Am. J. Pub. Health 550–51 (June 1977).

<sup>10</sup> Norwegian Food and Nutritional Policy, White Paper no. 32 (1975-76), Ministry Agric., Gov't Nor. (1975).

<sup>11</sup> K.I. Klepp & J.L. Forster, The Norwegian Nutrition and Food Policy, 6 J. Pub. Health Pol'y, 447, 450 (1985).

<sup>12</sup> Norwegian Nutrition Policy and Nutrition Campaigns (March 2009), Northern Ireland Assembly 3 (2009), <http://archive.niassembly.gov.uk/researchandlibrary/2009/9509.pdf>.

<sup>13</sup> Klepp & Forster, *supra* note 11, at 450.

<sup>14</sup> Norwegian Nutrition Policy and Nutrition Campaigns, *supra* note 12.

<sup>15</sup> Id.

<sup>16</sup> K.R. Norum, et al., Nutrition and Food Policy in Norway: Effects on Reduction of Coronary Heart Disease, 11 Nutrition Rev. S32, S33 (1997).

<sup>17</sup> Recipe for a Healthier Diet: Norwegian Action Plan on Nutrition (2007-2011), Norwegian Ministries 2 (2007), <https://www.regjeringen.no/globalassets/upload/hod/dokumenter-fha/sem/kostholdsplansen/is-0238-kortversjon-eng.pdf>.

<sup>18</sup> See id.

<sup>19</sup> Id. at 6.

Action Plan by the World Health Organization (WHO).<sup>20</sup> The WHO found that the Action Plan had helped to increase nutrition and health knowledge among Norwegians and, in addition, was viewed as “a supportive tool at [the] local level for initiating and implementing nutrition-related activities.”<sup>21</sup>

### **III. Public and Stakeholder Participation**

While the drafting of Norway’s first official food policy document, the 1975 white paper, involved little input from those outside of government, implementation of the policy involved continuous engagement with the public and key stakeholders. In drafting the white paper, the Norwegian Government formed a working group composed of a ministerial deputy and a staff expert from five key agencies, as well as a representative from the NNC.<sup>22</sup> The working group initially encountered difficulties because of the varied interests and perspectives of the different ministries, but ultimately united due to its strong mandate and a sense of urgency.<sup>23</sup> The draft document was presented to Parliament for hearings and debate before it was ratified.<sup>24</sup> Once the policy moved to the implementation stage, the NNC carried out significant outreach efforts. The NNC held regular meetings with food industry stakeholders and politicians.<sup>25</sup> In addition, the NNC met with schools, the health sector, local authorities, consumer and volunteer organizations, and the media to promote the policy.<sup>26</sup>

By contrast, Norway’s most recent food policy document, the Action Plan on Nutrition, solicited input at the start of the development process. Key stakeholders were invited to provide input in two public hearings.<sup>27</sup> In addition, the Government sought to promote an open dialogue around the Plan and received input from various experts, food industry actors, nongovernmental organizations, trade unions, universities, and county authorities.<sup>28</sup>

### **IV. Structure**

The Ministry of Agriculture coordinated and published the 1975 white paper, which called for the implementation of the food policy to be divided among the Ministries of Fisheries, Consumer Affairs, Government Administration, Environment, Commerce, Church and Education, Agriculture, Social Affairs, and Foreign Affairs.<sup>29</sup> The paper also established the Inter-Ministerial Council to coordinate policy implementation.<sup>30</sup> The Ministry of Health and Social Affairs was given responsibility for the administration of nutrition matters going forward, including secretarial functions for the Inter-Ministerial Council, the NNC, and its subcommittees.<sup>31</sup>

The NNC was reorganized in 1979 in order to implement the policy.<sup>32</sup> Its role was to advise key stakeholders on policy implementation, while also promoting nutrition research and overseeing evaluation of the policy.<sup>33</sup> The reorganization also created a forum where key stakeholders – including industry, large institutions, ministries, and research organizations – could collaborate in developing new nutrition guidelines, as well as new foods, such as whole grain products, to help achieve those guidelines.<sup>34</sup>

The Ministry of Health and Care Services oversaw the creation of the more recent Action Plan.<sup>35</sup> While the Action Plan was developed through the collaboration of 12 ministries, there was significant variation in the level and extent of involvement by each ministry.<sup>36</sup> While the Ministry of Health and Care Services appeared in 59 of the Action Plan’s 73 proposed measures, the Ministry of Education and Research, the Ministry of Fisheries and Coastal Affairs and the Ministry of Agriculture and Food appeared in 11-13 measures, and other ministries appeared in 0-5 measures.<sup>37</sup> The Ministry of Health and Care Services designated the Directorate of Health, an executive agency within the Ministry, to oversee the Action Plan’s implementation, with the NNC acting as an independent advisory board to the Directorate.<sup>38</sup>

---

<sup>20</sup> Evaluation of the Norwegian nutrition policy with a focus on the Action Plan on Nutrition 2007-2011, World Health Org. Regional Office for Europe 1 (2013) [hereinafter Evaluation of the Norwegian nutrition policy], [http://www.euro.who.int/\\_\\_data/assets/pdf\\_file/0003/192882/Evaluation-of-the-Norwegian-nutrition-policy-with-a-focus-on-the-Action-Plan-on-Nutrition-20072011.pdf](http://www.euro.who.int/__data/assets/pdf_file/0003/192882/Evaluation-of-the-Norwegian-nutrition-policy-with-a-focus-on-the-Action-Plan-on-Nutrition-20072011.pdf).

<sup>21</sup> Id. at 25.

<sup>22</sup> Milio, *supra* note 1, at 728.

<sup>23</sup> Id.

<sup>24</sup> Id. at 729.

<sup>25</sup> Norum, *supra* note 16, at S34.

<sup>26</sup> Id.

<sup>27</sup> Evaluation of the Norwegian nutrition policy, *supra* note 20, at 7.

<sup>28</sup> Id.

<sup>29</sup> Beverly Winikoff, Nutrition and Food Policy: The Approaches of Norway and the United States, 67 Am. J Pub. Health 552, 554 (June 1977).

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Klepp & Forster, *supra* note 11, at 450.

<sup>33</sup> Id.

<sup>34</sup> Bld. at 454.

<sup>35</sup> Evaluation of the Norwegian nutrition policy, *supra* note 20, at 10.

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Id.

## V. Key Priorities

The Ministry of Agriculture's seminal 1975 white paper prioritized four goals: (1) increased consumption of healthy food; (2) development of food production guidelines; (3) increased domestic independence from food importation; and (4) rural agricultural development.<sup>39</sup> The formulation of these goals was based on two key premises at that time: (1) Norwegian dietary patterns were intimately related to patterns of health and disease and (2) Norwegians had increased consumption of saturated fats, cholesterol, sugar, and decreased consumption of whole grain products and potatoes.<sup>40</sup> Norway's first policy therefore sought to improve the nutritional quality of the overall national diet, specifically by increasing the proportion of polyunsaturated fats and decreasing the proportion of saturated fats.<sup>41</sup> In addition, in order to address Norway's dependence on food imports, the policy set a goal of 52% food self-sufficiency over the next 25 years.<sup>42</sup>

While the Action Plan's focus remained on improving diet and nutrition, it articulated a broad range of ministerial actions and systems-based reforms. The Plan's two primary goals, to change the Norwegian diet and reduce social inequalities in diet, were translated into five strategies: (1) improve the availability of healthy food products; (2) increase consumers' knowledge; (3) improve the qualifications of key personnel; (4) develop a local basis of nutrition-related work; and (5) strengthen the focus on nutrition in the health care services.<sup>43</sup> The Plan breaks these strategies down even further, identifying 73 specific measures and the key ministries involved; these measures included developing a comprehensive plan for information and communication on nutrition, publishing a basic cook book, and awarding a nutrition prize.<sup>44</sup>

## VI. Analysis

Norway's 1975 farm-food-nutrition policy is notable, in no small part, because it was one of the first of its kind – it sought to coordinate nutrition and agriculture policy in order to curb diet-related disease and help achieve better health outcomes, overall, for the population. While the Government's formal launch of the policy came in the wake of a world food crisis, laying the groundwork for such a policy occurred over a period of at least twenty years. Key components included the National Nutrition Council, which had been looking at food systems challenges since 1946, and a series of reports – and growing alarm – about the connection between changes in the country's dietary patterns and rising rates of cardiovascular disease.<sup>45</sup>

Norway's commitment to addressing food and nutrition issues through a coordinated, inter-ministerial approach has been remarkably durable, surviving multiple political administrations and significant changes in the domestic and global context. Anchored by the NNC, Norway's food and nutrition policies have evolved to meet these changes and stay relevant.<sup>46</sup> Moreover, the Norway has demonstrated an ongoing commitment to research and self-evaluation. In 1982, a task force formed to monitor research activities and needs<sup>47</sup> and, more recently, the WHO performed a thorough evaluation of the Action Plan on Nutrition.<sup>48</sup>

<sup>39</sup> Ringen, *supra* note 9.

<sup>40</sup> Winikoff, *supra* note 29.

<sup>41</sup> Ringen, *supra* note 9.

<sup>42</sup> Milio, *supra* note 1, at 729.

<sup>43</sup> Evaluation of the Norwegian nutrition policy, *supra* note 20, at 1.

<sup>44</sup> Id. at 13.

<sup>45</sup> Winikoff, *supra* note 29.

<sup>46</sup> See Klepp & Forster, *supra* note 11, at 458–462.

<sup>47</sup> Id. at 455.

<sup>48</sup> See Evaluation of the Norwegian nutrition policy, *supra* note 20.

## SECTION A.4: SCOTLAND'S NATIONAL FOOD AND DRINK POLICY

### I. Introduction

The Scottish Government published its National Food and Drink Policy in 2009.<sup>1</sup> Beginning in 2007, the Government worked with the public and private sectors to develop a “more joined-up approach” to food policy. The process included the publication of two discussion papers and eventually released two discussion papers and a National Food and Drink Policy.<sup>2</sup>

### II. History

With the advent of a new administration in 2007, Scotland began to scrutinize its food policy.<sup>3</sup> The Government established an industry-led, government-supported group, Scotland Food & Drink, to provide leadership and strategic thinking around food.<sup>4</sup> In addition, the Government began to engage the public around food policy with an “Open Space” event, where a broad range of stakeholders explored food policy priorities, and then a Parliamentary debate, in which the Government announced its commitment to a national food policy.<sup>5</sup> In 2008, the Government released a discussion paper, Choosing the Right Ingredients, in order to spur public dialogue and gather input.<sup>6</sup> The Government also established five expert working groups, or “workstreams,” and a Food and Drink Leadership Forum to generate policy recommendations.<sup>7</sup> These recommendations, as well as responses to the discussion paper, informed the National Food and Drink Policy, Recipe for Success, released in 2009.<sup>8</sup> The Government published a second discussion paper, Becoming a Good Food Nation, in 2014, which reviewed progress and ongoing challenges since the Policy’s release.<sup>9</sup>

### III. Public and Stakeholder Participation

#### A. Discussion papers

The Government framed its first discussion paper, Choosing the Right Ingredients, as a broad-based call for public input, proclaiming that, “[f]or the first time ever, we are giving everyone in Scotland the opportunity to have their say about what is important to Scots and to Scotland – in terms of the food we produce and the food we consume.”<sup>10</sup> The discussion paper was an easy-to-read, 19-page document divided into five sections of content: 1) where we’ve come from, 2) where we are now, 3) where we’re going, 4) how will we get there?, 5) what do we all need to do?<sup>11</sup> The sixth section simply asked, “what do you think?,” and included information on how to provide feedback via blog, mail, online form, email, and phone.<sup>12</sup> The Government received over 500 responses from individuals and organizations.<sup>13</sup>

The Government released its second discussion paper, Becoming a Good Food Nation, five years after the publication of the National Food and Drink Policy.<sup>14</sup> The paper summarized progress towards the Policy’s goals and identified existing challenges, or “unfinished business.”<sup>15</sup> This discussion paper, too, served as an invitation for public input, asking 13 specific questions at the end the document and requesting responses via email.<sup>16</sup> The Government received 229 responses.<sup>17</sup>

#### B. Scotland Food & Drink

The Government helped to establish Scotland Food & Drink, a nonprofit membership-based organization, in 2007 because it felt that the food and drink industry’s interests were not adequately represented.<sup>18</sup> The organization is tasked with growing Scotland’s food and drink industry<sup>19</sup> and receives both public and private funding.<sup>20</sup> Scotland Food & Drink’s Executive

<sup>1</sup> See The Scottish Gov’t, Recipe for Success: Scotland’s National Food and Drink Policy (2009) [hereinafter Recipe for Success], <http://www.gov.scot/resource/doc/277346/0083283.pdf>.

<sup>2</sup> Id. at 5.

<sup>3</sup> The Scottish Gov’t, Choosing the Right Ingredients 11 (2008) [hereinafter Right Ingredients], <http://www.gov.scot/Resource/Doc/210097/0055515.pdf>.

<sup>4</sup> Id. at 5.

<sup>5</sup> National Food and Drink Policy for Scotland - Development of the Policy, The Scottish Gov’t, <http://www.gov.scot/Topics/Business-Industry/Food-Industry/national-strategy/history> (last viewed Dec. 15, 2016).

<sup>6</sup> See Right Ingredients, *supra* note 3.

<sup>7</sup> Recipe for Success, *supra* note 1, at 2–3.

<sup>8</sup> Id.

<sup>9</sup> See The Scottish Gov’t, Scotland’s National Food and Drink Policy: Becoming a Good Food Nation (2014) [hereinafter Becoming a Good Food Nation], <http://www.gov.scot/resource/0045/00453219.pdf>.

<sup>10</sup> Right Ingredients, *supra* note 3, at 1.

<sup>11</sup> See *id.*

<sup>12</sup> Id. at 18–19.

<sup>13</sup> Recipe for Success, *supra* note 1, at 2.

<sup>14</sup> See Becoming a Good Food Nation, *supra* note 9.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Becoming a Good Food Nation: An analysis of consultation responses, The Scottish Gov’t, <http://www.gov.scot/Publications/2015/02/3127> (last viewed Dec. 15, 2016).

<sup>18</sup> Right Ingredients, *supra* note 3, at 5.

<sup>19</sup> Our Role, Scotland Food & Drink, <http://www.foodanddrink.scot/about-us/our-role.aspx> (last viewed Dec. 15, 2016).

<sup>20</sup> Id.

Group, composed of industry leaders, sets the organization's agenda and drives industry policy.<sup>21</sup> The Board, on the other hand, includes representatives from both industry and the public sector and is responsible for guiding the organization.<sup>22</sup> Scotland Food & Drink helped to frame the questions and information presented in the first discussion paper<sup>23</sup> and led one of the working groups that helped to draft the National Food and Drink Policy.<sup>24</sup>

#### C. “Workstreams” and The Food and Drink Leadership Forum

In order to draft the Policy, the Cabinet Secretary for Rural Affairs and Environment established five topical working groups, or “workstreams”: 1) sustainable economic growth of the food and drink industry, 2) healthy and sustainable food and drink choices, 3) celebrating and safeguarding Scotland’s reputation as a Land of Food and Drink, 4) walking the talk – getting public sector procurement right, and 5) food security, access and affordability.<sup>25</sup> The workstreams included representatives from industry, academia, and the public sector,<sup>26</sup> and were led by individual stakeholders, ranging from a Restaurateur to a Professor.<sup>27</sup> Each workstream produced a report, which was then used by the Food and Drink Leadership Forum.<sup>28</sup>

The Government established the Food and Drink Leadership Forum to make recommendations for the National Policy based on the workstream reports.<sup>29</sup> The workstreams and the Leadership Forum met multiple times to debate and discuss issues.<sup>30</sup> The Forum was composed of just four individuals, each of whom served as a “champion” of one of four key issue areas: 1) health, 2) environment, 3) economy, and 4) affordability.<sup>31</sup> A representative of the drinks industry also participated in the Forum.<sup>32</sup> After the Policy was announced, the Leadership Forum was dissolved and a second, larger Leadership Forum was established in 2010.<sup>33</sup>

#### D. The Good Food Nation Movement

In addition to reviewing progress and challenges, the 2014 discussion paper articulated a new vision for transforming Scotland into “a good food nation.”<sup>34</sup> In order to embed this vision and harness the momentum around food policy, the Scottish Food Commission reported in 2016 that it seeks to launch a Good Food Movement.<sup>35</sup> While the Movement will engage all sectors and levels of government, it will be designed to appeal to civil society.<sup>36</sup> The Commission wants the Movement to be a “credible,” public movement “open to all” which shares its “successes and challenges...through websites, social media, networks, and events.”<sup>37</sup> While the definition of “good food nation” remains vague, the mandate for greater civil society engagement is clear.

### IV. Structure

The Cabinet Secretary for Environment, Food and Rural Affairs proposed the creation of a high-level Scottish Food Commission to review the existing National Food and Drink Policy and provide recommendations on implementing the new, “good food nation” vision laid out in the 2014 discussion paper, Becoming a Good Food Nation.<sup>38</sup> Comments on the 2014 discussion paper were delivered to the Commission.<sup>39</sup> The Commission’s 16 members represent a range of backgrounds and sectors, including nonprofits, government, small retailers, producers, and Scotland Food & Drink.<sup>40</sup> The Commission published its first report in February, 2016.<sup>41</sup>

Around the same time as the Commission was established, the civil society-led Scottish Food Coalition came together “in recognition that the problems in our current food system are interconnected and cannot be changed by focusing on a single issue.”<sup>42</sup> The Coalition is composed of organizations working on the environment, poverty, health, labor rights, food production, and animal welfare.<sup>43</sup> In March 2016, the Coalition outlined its strategic vision in its first report, Plenty.<sup>44</sup>

<sup>21</sup> Our Structure, Scotland Food & Drink, <http://www.foodanddrink.scot/about-us/our-structure.aspx> (last viewed Dec. 15, 2016).

<sup>22</sup> Id.

<sup>23</sup> Right Ingredients, *supra* note 3, at 17.

<sup>24</sup> Recipe for Success, *supra* note 1, at 2.

<sup>25</sup> Id.

<sup>26</sup> See, e.g., Professor Annie S. Anderson, Recommendations from Workstream 2 Annex 1 (June, 2009), <http://www.gov.scot/resource/doc/277394/0083288.pdf>.

<sup>27</sup> Recipe for Success, *supra* note 1, at 2.

<sup>28</sup> Id. at 3.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> The Food and Drink Leadership Forum, The Scottish Gov’t, <http://www.gov.scot/Topics/Business-Industry/Food-Industry/national-strategy/leadership-forum> (last visited Dec. 15, 2016).

<sup>34</sup> Becoming a Good Food Nation, *supra* note 9, at 18.

<sup>35</sup> Scottish Food Comm., Interim Report 7 (2016), <http://www.gov.scot/Resource/0049/00494779.pdf>.

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Id. at 5.

<sup>39</sup> Recipe for Success, *supra* note 1, at 26.

<sup>40</sup> Id. at 10.

<sup>41</sup> See id.

<sup>42</sup> About Us, Scottish Food Coalition, <http://www.foodcoalition.scot/about.html> (last viewed Dec. 15, 2016).

<sup>43</sup> Id.

<sup>44</sup> See Scottish Food Coalition, Plenty: Food Farming and Health in a New Scotland (2016), [http://www.foodcoalition.scot/uploads/6/2/6/8/62689573/plenty\\_complete.pdf](http://www.foodcoalition.scot/uploads/6/2/6/8/62689573/plenty_complete.pdf).

## V. Key Priorities

The National Food and Drink Policy focused on seven goals: 1) growth of the food and drink industry, 2) the country's reputation as a "land of food and drink," 3) healthy and sustainable choices, 4) public sector sustainable food procurement, 5) food system resilience, 6) food availability and affordability for all, and 7) consumer education.<sup>45</sup> For each goal, the Policy document identified existing policies and programs, and outlined concrete next steps.<sup>46</sup>

The 2014 discussion paper established a broad vision for a "good food nation" and, in addition, identified a few more specific priority areas: public procurement, children's food policy, local food, consumer education, and continued economic growth.<sup>47</sup>

## VI. Analysis

The release of the National Policy was preceded and succeeded by the release of discussion papers, which prompted public feedback with specific questions and gave a variety of mechanisms through which that feedback could occur. Scotland has also made it easier for the public to engage with the process by making the discussion papers and the National Policy accessible easy-to-read and short. However, such accessibility may come at the expense of substance. Public health experts and nutritionists denounced the 2016 Scottish Food Commission report as un-substantive, but met the Scottish Food Coalition's first report with "greater enthusiasm."<sup>48</sup> Indeed, as indicated by the Government's role in creating and supporting Scotland Food & Drink, growing the country's food and drink industry was a key driver in the creation of the National Policy. At the same time, the process of creating the Policy involved a broad range of stakeholders who were integrated into the same small working and deliberative groups, as opposed to being separated out by sector.

---

<sup>45</sup> Recipe for Success, *supra* note 1, at 1.

<sup>46</sup> See *id.*

<sup>47</sup> Recipe for Success, *supra* note 1, at 21.

<sup>48</sup> Vicky Allen, Health Experts Savage Scottish Food Commission for Failing to Tackle Nation's Diet Crisis, *The Herald* (Mar. 12, 2016), [http://www.heraldscotland.com/news/homenews/14340355.Health\\_experts\\_savage\\_Scottish\\_Food\\_Commission\\_for\\_failing\\_to\\_tackle\\_nation\\_s\\_diet\\_crisis/](http://www.heraldscotland.com/news/homenews/14340355.Health_experts_savage_Scottish_Food_Commission_for_failing_to_tackle_nation_s_diet_crisis/).

## SECTION A.5: THE UNITED KINGDOM'S NATIONAL FOOD STRATEGY

### I. Introduction

The British Government released the country's National Food Strategy, Food 2030, in 2010.<sup>1</sup> The Strategy articulates the Government's vision for a "sustainable and secure food system for 2030" and identifies goals and actions to achieve this vision. The Strategy was prompted, in large part, by the Government's lack of coordination around food policy.<sup>2</sup> As a result, it seeks to build on existing work and focuses on integrating the Government's vision across numerous government departments, as well as other key food system actors.

Note: Since the release of Food 2030, the United Kingdom has undergone two changes in administration. The Strategy was not taken up by the Cameron Administration and would now need to undergo significant revision to reflect the United Kingdom's decision to leave the European Union ('Brexit'). Food 2030 makes frequent reference to the European Union and commentators predict that Brexit will have a significant impact on the U.K. food system.<sup>3</sup>

### II. History

The United Kingdom undertook the creation of a food strategy largely in response to two pressing food system challenges, obesity and climate change, and the inability of the government to effectively address them.<sup>4</sup> When Prime Minister Gordon Brown took office in 2007, his first request to the Strategy Unit – an elite unit within the Cabinet Office that supported cross-departmental policymaking<sup>5</sup> – was to review food policy.<sup>6</sup> The Strategy Unit released its white paper, Food Matters, in 2008.<sup>7</sup> Food Matters found that the United Kingdom already had many of the pieces required for a comprehensive food strategy, such as food safety systems, food-related legislation, and long-term strategies and policies addressing narrower food systems issues such as obesity and sustainable food production.<sup>8</sup> However, these pieces lacked coordination across government.<sup>9</sup>

Food Matters asserted that a strategy was needed to "tackl[e] the core issues in a more integrated manner" and foster "partnership between the Government and others to catalyse [sic] change in a system over which the Government's direct control is often limited."<sup>10</sup> The paper also detailed major challenges facing the food system, including a changing food culture, inefficient supply chains, increasing food prices, food safety risks, poor diet, environmental impacts, global and national food security, and food waste.<sup>11</sup> Following the release of Food Matters, the U.K. Department for Environment, Food, and Rural Affairs ('Defra') released its own discussion paper.<sup>12</sup> This paper, in conjunction with the Food and Agriculture Organization's Summit on World Food Security, spurred the British Parliament to take up its own inquiry into the U.K. food system, and solicit input.<sup>13</sup>

The Government followed the recommendations and action steps outlined in Food Matters and created a Food Strategy Task Force ('Task Force') and a Council of Food Policy Advisors ('Council') to oversee the creation of a strategy.<sup>14</sup> In 2010, the Government published the strategy document, Food 2030, and simultaneously launched the cross-Government Strategy for Food Research and Innovation to better coordinate food research efforts.<sup>15</sup>

<sup>1</sup> Dep't for Env't, Food, & Rural Affairs, HM Gov't, Food 2030 (Jan. 2010) [hereinafter Food 2030], <http://www.appg-agscience.org.uk/linkedfiles/Defra%20food2030strategy.pdf>.

<sup>2</sup> Cabinet Office, Strategy Unit, U.K., Food Matters: Towards a Strategy for the 21st Century iii (2008) [hereinafter Food Matters], <http://www.defra.gov.uk/waste/Reports/food%20matters,%20Towards%20a%20Strategy%20for%20the%2021st%20Century.pdf>.

<sup>3</sup> Tim Lang & Victoria Shoen, Food, the UK and the EU: Brexit or Bremain?, Food Research Collaboration (2016), <http://foodresearch.org.uk/wp-content/uploads/2016/03/Food-and-Brexit-briefing-paper-2.pdf>.

<sup>4</sup> Food 2030, *supra* note 1.

<sup>5</sup> The Strategy Unit no longer exists, but was a Cabinet Office that served three main functions: "(1) to carry out strategy reviews and provide policy advice in accordance with the Prime Minister's policy priorities; (2) to support government departments in developing effective strategies and policies, including helping them to build their strategic capability; and (3) to identify and effectively disseminate thinking on emerging issues and challenges for the UK Government e.g. through occasional strategic audits." Prime Minister's Strategy Unit, The Nat'l Archives, <http://webarchive.nationalarchives.gov.uk/20031220221857/cabinetoffice.gov.uk/strategy/>.

<sup>6</sup> David Barling & Tim Lang, Food Policy in the UK: Reflections on Food 2030: Before and After, 5 Food Ethics 6 (2010), <http://openaccess.city.ac.uk/12916/3/FEC%20Barling%20Lang%20Intro%20FdPolUK%20v5%2029%2004%2010.pdf>.

<sup>7</sup> Food 2030, *supra* note 1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at i, 4–5. Additionally, the document detailed the major challenges facing the food and agricultural sector, including: a changing food culture; differing challenges faced by the food and drink supply chain; increasing food prices due to increases in global commodity prices; food safety; poor diet; environmental impacts associated with the food system; global and national food security; and food waste. *Id.* at v–x.

<sup>10</sup> *Id.* at 42.

<sup>11</sup> *Id.* at v–x.

<sup>12</sup> Dep't for Env't, Food, & Rural Affairs, Ensuring the UK's Food Security in a Changing World: A Defra Discussion Paper, <http://www.defra.gov.uk/waste/Reports/DEFRA-Essuring-UK-Food-Security-in-a-changing-world-170708.pdf>.

<sup>13</sup> Environment, Food and Rural Affairs Committee, Securing Food Supplies Up to 2050: The Challenges for the UK, Parliament of U.K., <http://www.parliament.uk/business/committees/committees-archive/environment-food-and-rural-affairs/efra-pn02-081211/>.

<sup>14</sup> Food Matters, *supra* note 2, at 112; Food 2030, *supra* note 1, at 5.

<sup>15</sup> Food 2030, *supra* note 1, at 5.

### **III. Public and Stakeholder Participation**

While drafting Food Matters, the Strategy Unit received advice and input from organizations and individuals across the food system.<sup>16</sup> A government research team organized a series of workshops to gather feedback and ideas.<sup>17</sup> The Strategy Unit also sought input from the governments in Scotland, Wales, and Northern Ireland.<sup>18</sup>

While drafting Food 2030, the Defra held several invite-only stakeholder meetings, four public regional events, and an online Twitter discussion.<sup>19</sup>

### **IV. Structure**

The Task Force, composed of senior officials from relevant ministries, oversaw government action on the food issues and priorities outlined in Food Matters.<sup>20</sup> The Task Force tracked progress on the report's implementation,<sup>21</sup> and provided updates to the Prime Minister.<sup>22</sup> The Task Force released a report, Food Matters One Year On, in 2009, and disbanded shortly thereafter.<sup>23</sup> Ongoing coordination efforts were passed onto the Council and Defra.<sup>24</sup>

The Council was chartered for two years and operated under Defra.<sup>25</sup> The Council's fifteen members included academics, executives, and interest groups.<sup>26</sup> The Council provided Defra with advice on food policy, gathering information from monthly public and closed meetings as well as meetings with other stakeholders from government, non-profit organizations, industry, and advocacy groups.<sup>27</sup> Defra also established a Food Policy Unit, within the Department, to oversee the day-to-day of coordination efforts.<sup>28</sup> Together with the Council, the Food Policy Unit was responsible for defining priorities and stakeholders.<sup>29</sup>

### **V. Key Priorities**

Like Food Matters, the Strategy document called for integration of food policy across the government in order to respond to sustainability, security, and health challenges.<sup>30</sup> The Strategy focused on six core issues in the food system: (1) a healthy and sustainable diet, (2) a resilient, profitable, and competitive food system, (3) increasing food production sustainably, (4) reducing the food system's greenhouse gas emission, (5) reducing, reusing, and reprocessing waste, and (6) increasing the impact of skills, knowledge, research, and technology.<sup>31</sup>

### **VI. Analysis**

The United Kingdom's strategy was one of the first to try to account for the totality of the food system, and take a whole-of-government approach. As a result, both the process of developing the Strategy and the document itself focused on coordination, and used many mechanisms—the Policy Unit, the Task Force, and the Council—to gather information and build consensus and buy-in. However, because the Strategy emerged from the executive, instead of Parliament, it was vulnerable to changes in government and has not been implemented by subsequent administrations.

---

<sup>16</sup> Food Matters, *supra* note 2, at 7.

<sup>17</sup> *Id.*

<sup>18</sup> Right Ingredients, *supra* note 3, at 5.

<sup>19</sup> *Id.*

<sup>20</sup> Food 2030, *supra* note 1, at 112.

<sup>21</sup> *Id.* at 120.

<sup>22</sup> *Id.* at v, 112.

<sup>23</sup> Angela Smith, Minister of State (Third Sector), Food Strategy Task Force, TheyWorkForYou (Dec. 10, 2009), <https://www.theyworkforyou.com/wrants/?id=2009-12-10b.304267.h>.

<sup>24</sup> *Id.*

<sup>25</sup> Council of Food Pol'y Advisors, Dep't for Env't, Food, & Rural Affairs, HM Gov't, First Report from the Council of Food Policy Advisors 15 (Sept. 2009) [hereinafter Food Policy Advisor Report], <http://www.appg-agscience.org.uk/linkedfiles/090914%20Defra%20Food%20Council%20Report.pdf>.

<sup>26</sup> *Id.* at 16.

<sup>27</sup> *Id.* at 15.

<sup>28</sup> *Id.* at 3; Sustainable, Secure, and Healthy Food Supply Evidence Plan 2011/12, Dep't for Env't, Food, & Rural Affairs, HM Gov't (Apr. 2011), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69250/pb13515-ep-food-supply.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69250/pb13515-ep-food-supply.pdf).

<sup>29</sup> Food Policy Advisor Report, *supra* note 25, at 15.

<sup>30</sup> *Id.* at 4.

<sup>31</sup> *Id.* at 9.

## SECTION A.6: WALES' NATIONAL FOOD STRATEGY

### I. Introduction

The Welsh Government released the country's food strategy, Food for Wales, Food from Wales (2010-2020), in 2010.<sup>1</sup> While the Strategy articulates a number of specific goals and objectives, its stated theme of "building connections and capacities" is woven throughout the document, with its emphasis on collaboration among key actors and coordination across existing strategies.<sup>2</sup> In 2014, the Government released an Action Plan for the Food and Drink Industry, Towards Sustainable Growth, to supplement and implement the Strategy.<sup>3</sup> Implementation of the Strategy and Plan has focused on industry, while it remains unclear how the Welsh Government plans to facilitate coordination across the whole of the food system.

### II. History

In 2009, the Welsh Government published three comprehensive strategies: a sustainable development strategy, One Wales: One Planet,<sup>4</sup> a health strategy, Our Healthy Future,<sup>5</sup> and a farming strategy, Farming, Food, and Countryside.<sup>6</sup> These strategies laid the foundation for the Food Strategy.<sup>7</sup> The Government then released a draft Strategy in July of 2010, along with a consultation document that posed 14 questions.<sup>8</sup> The final Food Strategy was published in December of 2010.<sup>9</sup> Though the Strategy called for an implementation plan developed in partnership with industry and an annual review, there was a "hiatus" on this progress until 2014, when the Government released the industry-focused Action Plan for the Food and Drink Industry.<sup>10</sup>

### III. Public and Stakeholder Participation

The Government developed the Strategy in close partnership with the Food and Drink Development Partnership (FDAP), a 20-member advisory council, and the Centre for Business Responsibility, Accountability, Sustainability, and Society (BRASS) at Cardiff University.<sup>11</sup> In addition, the Government solicited written feedback on the draft Strategy<sup>12</sup> and held four consultation meetings across the country.<sup>13</sup>

### IV. Structure

The Government's Food, Fisheries, and Market Development Division contains a Food Policy and Strategy Unit, which was responsible for developing the Strategy.<sup>14</sup> The FDAP, the industry advisory council, played a key role in drafting the 2014 Action Plan and, following the release of the Plan, the Minister for Natural Resources and Food created a Food and Drink Wales Industry Board to oversee implementation of the Plan.<sup>15</sup> However, the Plan is more narrowly focused than the Strategy and, as an evaluation of the Strategy and Plan notes, it is unclear who is responsible for "agri-food governance" within the Welsh Government or beyond.<sup>16</sup>

<sup>1</sup> Welsh Assembly Gov't, Food for Wales, Food from Wales 2010/2020: Food Strategy for Wales (2010) [hereinafter Food for Wales] , <http://gov.wales/docs/drah/publications/101207-food-for-wales-food-from-wales-en.pdf>

<sup>2</sup> See id.

<sup>3</sup> Food and Drink Wales, Towards Sustainable Growth: An Action Plan for the Food and Drink Industry 2014-2020 (2014)[hereinafter Action Plan], <http://gov.wales/docs/drah/publications/140611-action-plan-for-food-and-drink-en.pdf>

<sup>4</sup> Welsh Assembly Gov't, One Wales: One Planet (2009), <http://www.wales.nhs.uk/sitesplus/documents/829/One%20Wales-%20One%20Planet%20%282009%29.pdf>.

<sup>5</sup> Welsh Assembly Gov't, Our Healthy Future (2009), <http://hapwales.org/attachments/article/3/Our%20Healthy%20Future.pdf>.

<sup>6</sup> Welsh Assembly Gov't, Farming, Food, and Countryside (2009), [https://biobs.jrc.ec.europa.eu/sites/default/files/generated/files/policy/Wales\\_Welsh%20Assembly%20Government\\_Farming,%20Food%20and%20Countryside.pdf](https://biobs.jrc.ec.europa.eu/sites/default/files/generated/files/policy/Wales_Welsh%20Assembly%20Government_Farming,%20Food%20and%20Countryside.pdf).

<sup>7</sup> Food for Wales, *supra* note 1, at 3..

<sup>8</sup> Welsh Assembly Gov't, Consultation on a Food Strategy for Wales (2010) [hereinafter Consultation Document], <http://www.assembly.wales/meeting%20agenda%20documents/consultation%20document%20-06072010-189079/consultation-english.pdf>.

<sup>9</sup> See Food for Wales, *supra* note 1.

<sup>10</sup> Terry Marsden et al., Food Policy as Public Policy: A Review of the Welsh Government's Food Strategy and Action Plan 3 (2016) [hereinafter Food Policy as Public Policy], <http://ppiw.org.uk/files/2016/06/PPIW-Report-Food-Policy-as-Public-Policy.pdf>.

<sup>11</sup> Food for Wales, *supra* note 1, at 3.

<sup>12</sup> See Consultation Document, *supra* note 8.

<sup>13</sup> Consultation on Food Strategy for Wales, Welsh Food Bites (Sep. 16, 2010), <http://www.welshfoodbites.co.uk/2010/09/16/consultation-on-food-strategy-for-wales/>.

<sup>14</sup> Food Policy and Strategy, Welsh Assembly Gov't, <http://gov.wales/topics/environmentcountryside/foodanddrink/foodpolicyandstrategy/?lang=en> (last visited Dec. 15, 2016).

<sup>15</sup> Food Policy as Public Policy, *supra* note 10, at 3.

<sup>16</sup> Id. at 7.

## **V. Key Priorities**

While the Food Strategy enumerates a number of specific objectives and actions, it is built on four broad goals: sustainability, resilience, competitiveness, and profitability.<sup>17</sup> In addition, the Strategy states that its overarching theme of “building connections and capacities” will be implemented through “five key drivers”: 1) market development, 2) food culture, 3) sustainability and well-being, 4) supply chain efficiency, and 5) integration.<sup>18</sup>

## **VI. Analysis**

Wales already had in place a handful of strategies relevant to food policy. The Food Strategy’s theme of facilitating greater coordination and integration was ambitious. The Strategy addresses the unique roles of a variety of key actors and stakeholders and how they can, individually and collectively contribute to a more holistic understanding of the food system. The Strategy also seeks to build on Wales’ existing strategies and it confronts the need to make policy tradeoffs: “where some of our aspirations conflict, we must acknowledge this openly.”<sup>19</sup> However, implementation of this ambitious vision of greater coordination has lagged. While the Strategy touches on numerous dimensions of the food system, the 2014 Action Plan largely addresses the food and drink industry. Indeed, the food and drink industry has been a key driver of the Strategy since its inception. Though the Government conducted a public consultation process on the draft Strategy, an industry advisory council and an industry-focused research group played key roles in formulating the Strategy and its goals.

---

<sup>17</sup> Food for Wales, *supra* note 1, at 31.

<sup>18</sup> *Id.* at 32.

<sup>19</sup> *Id.* at 67.

# APPENDIX B: U.S. NATIONAL STRATEGIES

---

## SECTION B.1: NATIONAL HEALTH SECURITY STRATEGY

### I. Introduction

The National Health Security Strategy (NHSS) enhances national health security by safeguarding people from the health consequences of significant events or threats, such as adverse weather events, disease outbreaks, or man-made attacks.<sup>1</sup>

### II. History

Congress passed the Pandemic and All-Hazards Preparedness Act in 2006.<sup>2</sup> The Act mandates that the Secretary of Health and Human Services submit the NHSS to the Congress every four years.<sup>3</sup> The NHSS must be consistent with the National Response Plan,<sup>4</sup> the Department of Homeland Security's "all hazard, all discipline plan" for domestic incidents and emergencies.<sup>5</sup> The Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA) reauthorized the 2006 Act and the NHSS.<sup>6</sup>

### III. Structure

#### A. The Strategy

The 2006 Act lists a number of goals that the NHSS must seek to accomplish: (1) integrating with federal, state, local, tribal, and private sector preparedness capabilities; (2) developing these preparedness capabilities through periodic evaluation (drills); (3) developing the preparedness capabilities of medical centers and hospitals; and (4) taking special care of at-risk individuals such as children, pregnant women and the elderly.<sup>7</sup> In addition, the NHSS works with global organizations such as the World Health Organization to prioritize the enhancement of health security capabilities.<sup>8</sup>

The NHSS implements a "common vision" of national health security where one had not previously existed.<sup>9</sup> The Assistant Secretary for Preparedness and Response (ASPR), under the Department of Health and Human Services (HHS), drafts the Strategy in collaboration with a wide range of stakeholders, including local and state entities, nonprofit and community organizations, private sector participants, and academia.<sup>10</sup>

#### B. The Strategy and Implementation Plan

The NHSS for 2015-2018 incorporates both strategic objectives and implementation activities in a single document.<sup>11</sup> The strategy portion provides overarching objectives, guiding principles, and a uniting vision, whereas the implementation portion provides step-by-step activities for stakeholders at all levels, according to priority under each strategic objective.<sup>12</sup> The implementation portion is longer than the strategy itself and provides greater details on execution and oversight.<sup>13</sup>

#### C. The Oversight Committee

The latest version of the NHSS also involves The Oversight Committee, which is responsible for overseeing the implementation of the strategy.<sup>14</sup> The Oversight Committee includes the following components: the strategic-level guidance committee, the

---

<sup>1</sup> Pub. Health Emergency, Frequently Asked Questions [hereinafter NHSS FAQ], <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/faqs.aspx> (last updated Feb. 13, 2015).

<sup>2</sup> Pandemic and All-Hazards Preparedness Act, Pub. L. No. 109–417, 120 Stat. 2831 (2006), <https://www.gpo.gov/fdsys/pkg/PLAW-109publ417/pdf/PLAW-109publ417.pdf>.

<sup>3</sup> Id.

<sup>4</sup> 42 U.S.C. § 300hh–1 (2013), <https://www.law.cornell.edu/uscode/text/42/300hh-1>.

<sup>5</sup> Dept. of Homeland Sec., National Response Plan Brochure, [https://www.dhs.gov/xlibrary/assets/NRP\\_Brochure.pdf](https://www.dhs.gov/xlibrary/assets/NRP_Brochure.pdf) (last visited Jan. 5, 2017).

<sup>6</sup> See Pub. Health Emergency, Pandemic and All-Hazards Preparedness Reauthorization Act, <http://www.phe.gov/Preparedness/legal/pahpa/Pages/pahpra.aspx> (last visited April 8, 2016).

<sup>7</sup> 42 U.S.C. § 300hh–1.

<sup>8</sup> Pub. Health Emergency, Strengthen Global Health Security, <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/global.aspx> (last updated Feb. 13, 2015).

<sup>9</sup> CNHSS FAQ, *supra* note 1.

<sup>10</sup> Pub. Health Emergency, National Health Security Strategy and Implementation Plan, <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/strategy.aspx> (last updated Feb. 13, 2015).

<sup>11</sup> U.S. Dep't of Health & Hum. Servs., National Health Security Strategy and Implementation Plan 2015–2018 ii–iv (2015) [hereinafter National Health Security Report], <http://www.phe.gov/Preparedness/planning/authority/nhss/Documents/nhss-ip.pdf>.

<sup>12</sup> Id.

<sup>13</sup> See *id.*

<sup>14</sup> *Id.* at 63–64.

core management committee, functional subcommittees, and nonfederal stakeholder engagement.<sup>15</sup> Notably, the fourth component, nonfederal stakeholder engagement, provides community stakeholders with an avenue for voicing their ideas and concerns about progress on national health security through the NHSS.<sup>16</sup>

#### D. The National Health Security Review

The NHSS tracks strategic progress through the National Health Security Review (NHSR). Publicly available on NHSS's website and readily accessible, the NHSR gathers data from a range of sources including hospitals and departments of health; highlights achievements; evaluates whether the strategy is on track; and identifies future challenges to be tackled by the next quadrennial the NHSS.<sup>17</sup> The NHSS also uses annual progress monitoring measures such as the National Health Security Preparedness Index and the National Snapshot of Public Health Preparedness.<sup>18</sup> These tools condense key information, identifying progress towards national health security and challenge to address moving forward.<sup>19</sup>

### IV. Analysis

The NHSS addresses a vast range of public health stakeholders at the state, local, and federal level, bringing them around a common vision for health security. Because the NHSS deals with security matters, a focus on implementation is critical. NHSS provides ample opportunity for robust implementation and evaluation, utilizing a multi-purpose Oversight Committee, implementation plan, and the NHSR. Each serves a different function, but ensures that the strategy is consistently revised to meet its goals. In addition, the Oversight Committee's community engagement component ensures that reports are disseminated. PAHPRA's reauthorization in 2013, which passed easily in Congress,<sup>20</sup> demonstrates strong bipartisan support to treat health security like other national security interests.<sup>21</sup>

---

<sup>15</sup> Id. at 63.

<sup>16</sup> Id. at 64.

<sup>17</sup> Pub. Health Emergency, National Health Security Review 2010-2014, <http://www.phe.gov/Preparedness/planning/authority/nhss/Pages/nhsr.aspx> (last updated Feb. 19, 2015).

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Passed in Congress 370 to 28. Aeolus Provides Investor Update on Passage of Pandemic All Hazards Preparedness Act, Market Wired (Mar. 14, 2013), <http://www.marketwired.com/press-release/aeolus-provides-investor-update-on-passage-pandemic-all-hazards-preparedness-act-2013-otcqb-aols-1767974.htm>.

<sup>21</sup> Letter from coalition of forty-four health organization and companies to Senator Tom Harkin et al. (Nov. 13, 2012), [https://www.idsociety.org/uploadedFiles/IDSA/Policy\\_and\\_Advocacy/Current\\_Topics\\_and\\_Issues/Emerging\\_Infections\\_and\\_Biothreats/Letters/To\\_Congress/PAHPRA%20sign-on%20letter%2011%2013%2012.pdf](https://www.idsociety.org/uploadedFiles/IDSA/Policy_and_Advocacy/Current_Topics_and_Issues/Emerging_Infections_and_Biothreats/Letters/To_Congress/PAHPRA%20sign-on%20letter%2011%2013%2012.pdf).

## SECTION B.2: NATIONAL QUALITY STRATEGY

### I. Introduction

The National Quality Strategy (NQS), or the National Strategy for Quality Improvement in Health Care, guides health systems quality improvement efforts in order to provide safer, better, and more affordable health care for individuals and communities.<sup>1</sup>

### II. History

The NQS was mandated by Section 3011 of the Patient Protection and Affordable Care Act (ACA).<sup>2</sup> The NQS supports the ACA's broader goal of ensuring that all Americans have access to high quality, affordable health care.<sup>3</sup> The Agency for Healthcare Research and Quality, under the Department of Health and Human Services (HHS), led the creation of the Strategy,<sup>4</sup> which was first released in March 2011.<sup>5</sup>

### III. Structure

#### A. The Strategy

The NQS consists of overarching and interrelated goals, priorities among those goals, and mechanisms for action. The three goals—(1) Better Care; (2) Healthy People/Healthy Communities; and (3) Affordable Care—are broad and intended to remain constant over time.<sup>6</sup> The six priorities address the average American's common healthcare concerns, such as ensuring person- and family-centered care.<sup>7</sup> The Strategy recognizes that different communities will have different ways of achieving these priorities based upon the individual assets and needs of each community. Thus, the Strategy's nine mechanisms for action each focus on a key resource and/or action, such as public reporting and measurement and feedback, which stakeholders can use in order to align their practices with the goals and priorities laid out in the Strategy.<sup>8</sup>

In addition, the NQS recognizes that meeting these goals and priorities will require collaboration between federal government, states, and the private sector.<sup>9</sup> The NQS is intended to be a living document, a roadmap that can be changed and updated as necessary, aggregating input and feedback from all stakeholders on a continuing basis.<sup>10</sup>

#### B. The Measurement Policy Council (MPC)

In an effort to address the "abundance of clinical measures" in national healthcare programs, the NQS aligns clinical measures of healthcare quality through the Measurement Policy Council (MPC), composed of representatives from federal agencies and operating divisions across HHS.<sup>11</sup> The MPC streamlines measures across HHS and federal programs, in order to reduce the burden on providers in the system.<sup>12</sup> These measures are created for the federal government; however, they are considered good models for state and local initiatives.<sup>13</sup>

#### C. Interagency Working Group on Health Care Quality

The ACA also mandated the creation of an Interagency Working Group on Health Care Quality, comprising senior representatives from 24 federal agencies.<sup>14</sup> The Working Group's mission is to achieve "collaboration, cooperation, and consultation between Federal departments and agencies with respect to developing and disseminating the strategies, goals, models, and timetables" that will advance the national priorities outlined in the Strategy.<sup>15</sup> The Working Group does this, in part, by working to avoid duplication across agencies, ensure accountability, and develop processes and procedures for reporting.<sup>16</sup>

<sup>1</sup> U.S. Dep't of Health & Human Servs., National Strategy for Quality Improvement in Health Care 6 (Mar. 2011) [hereinafter Quality Healthcare Strategy], <http://www.ahrq.gov/workingforquality/nqs/nqs2011annlrpt.pdf>.

<sup>2</sup> 42 U.S.C. § 280j (2010), <http://www.hhs.gov/sites/default/files/ppacaon.pdf>.

<sup>3</sup> Quality Healthcare Strategy, *supra* note 1.

<sup>4</sup> *Id.* at 22.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 6–7. (The six priorities are: (1) Making care safer; (2) Ensuring person- and family-centered care; (3) Promoting effective communication and coordination of care; (4) Promoting the most effective prevention and treatment of the leading causes of mortality, starting with cardiovascular disease; (5) Working with communities to promote wide use of best practices to enable healthy living; and, (6) Making quality care more affordable.)

<sup>8</sup> Agency for Healthcare Research & Quality & U.S. Dep't of Health & Human Servs., About the National Quality Strategy (NQS) [hereinafter About NQS], <http://www.ahrq.gov/workingforquality/about.htm> (last visited Dec. 28, 2016).

<sup>9</sup> Quality Healthcare Strategy, *supra* note 1, at 2, 17.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> About NQS, *supra* note 8.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111–148, § 3012(c) (2010), <https://www.hhs.gov/sites/default/files/ppacaon.pdf>.

<sup>15</sup> *Id.* at § 3012(b)(1).

#### **D. National Quality Strategy Toolkit**

To assist stakeholders in implementation of the Strategy, the Agency for Healthcare Research and Quality created a National Quality Strategy Toolkit (“the Toolkit”) to provide a collection of resources for achieving the Strategy’s priorities as well as fact sheets and progress reports about the overall Strategy.<sup>17</sup> “Priorities in Action” is a key resource under the Toolkit; it highlights features of the nation’s most promising and transformative quality improvement programs that fit within the Strategy’s six priorities.<sup>18</sup> These are updated monthly and are representative of all private sector, Federal, State and local stakeholders.<sup>19</sup>

#### **E. Annual Progress Report**

The ACA mandates that a progress report be provided to Congress no less than once a year in order to assess implementation and performance of the Strategy.<sup>20</sup> Each annual report to Congress has provided slightly different information, highlighting the adaptability of the Strategy: the 2012 Annual Report created long-term goals and tracking measures;<sup>21</sup> the 2013 Annual Report applied the tracking measures to the health care landscape;<sup>22</sup> and the 2014 Annual Report highlights progress across the Strategy’s six priorities.<sup>23</sup> Beginning in 2014, the NQS Annual Report and the National Healthcare Quality and Disparities report were integrated into a single report.<sup>24</sup>

### **IV. Analysis**

The NQS leverages a more grassroots approach in its strategic design. It asks for stakeholder input when setting metrics, goals, and objectives, and has a toolkit specifically made to help stakeholders realize the aims of the Strategy.<sup>25</sup> The Toolkit’s “Priorities in Action” provide best practices, and help concretize the Strategy, including examples from the private sector, federal, state, and local stakeholders. It further promotes stakeholder engagement by utilizing ongoing measurement and feedback, providing public reports, and coordinating among stakeholders through the MPC. Moreover, the NQS recognizes that local efforts are key and that communities differ, meaning they will engage with the Strategy’s priorities and levers in unique ways.

Because the NQS works in a field, healthcare, in which there is a proliferation of data and metrics, it prioritizes standardization of these measurements through the MPC. This is important for strengthening coordination and reporting. While variances in metrics, evaluation and data analysis present ongoing challenges for the Strategy,<sup>26</sup> the MPC’s “measurement alignment and harmonization” efforts for federal agencies also serves as a template for state and local agencies and groups.<sup>27</sup>

---

<sup>16</sup> Quality Healthcare Strategy, *supra* note 1, at 22.

<sup>17</sup> Agency for Healthcare Research & Quality & U.S. Dep’t of Health & Human Servs., National Quality Strategy Stakeholder Toolkit 4–5 (Mar. 2016), <http://www.ahrq.gov/workingforquality/nqs/nqstoolkit2016.pdf> (last visited Jan. 5, 2017).

<sup>18</sup> *Id.* at 6.

<sup>19</sup> *Id.*

<sup>20</sup> 42 U.S.C. § 280j(d)(2)(A) (2010), <http://www.hhs.gov/sites/default/files/ppacacon.pdf>.<sup>18</sup> *Id.* at 6.

<sup>21</sup> U.S. Dep’t of Health & Human Servs., 2012 Annual Progress Report to Congress: National Strategy for Quality Improvement in Health Care 16–24 (Apr. 2012), <http://www.ahrq.gov/workingforquality/nqs/nqs2012annlrpt.pdf>.

<sup>22</sup> U.S. Dep’t of Health & Human Servs., 2013 Annual Progress Report to Congress: National Strategy for Quality Improvement in Health Care (2013), <http://www.ahrq.gov/workingforquality/reports/annual-reports/nqs2013annlrpt.pdf>.

<sup>23</sup> U.S. Dep’t of Health & Human Servs., 2014 Annual Progress Report to Congress: National Strategy for Quality Improvement in Health Care (2014) [hereinafter 2014 Progress Report], <http://www.ahrq.gov/workingforquality/reports/annual-reports/nqs2014annlrpt.htm>.

<sup>24</sup> Agency for Healthcare Research & Quality, See 2015 National Healthcare Quality and Disparities Report and 5th Anniversary Update to the National Quality Strategy (2015), <http://www.ahrq.gov/sites/default/files/wysiwyg/research/findings/nhqrdr/nhqrdr15/2015nhqrdr.pdf>.

<sup>25</sup> U.S. Dep’t of Health & Human Servs., National Quality Strategy Stakeholder Toolkit (2014), <http://www.ahrq.gov/workingforquality/nqs/nqstoolkit.pdf>.

<sup>26</sup> 2014 Progress Report, *supra* note 23.

<sup>27</sup> U.S. Dep’t of Health & Human Servs., 2015 Annual Progress Report to Congress (2015), <https://www.ahrq.gov/workingforquality/reports/annual-reports/nqs2015annlrpt.htm>.

## SECTION B.3: NATIONAL STRATEGY FOR COMBATING ANTIBIOTIC-RESISTANT BACTERIA

### I. Introduction

The National Strategy for Combating Antibiotic-Resistant Bacteria (“Strategy”) aims to mitigate the threat of antibiotic-resistant bacteria by reducing its incidence and ensuring the availability of antibiotics that are effective for treating bacterial infections.<sup>1</sup>

### II. History

In 2009, President Obama tasked The President’s Council of Advisors on Science and Technology (PCAST) with providing advice and recommendations on combating antibiotic-resistant bacteria to the Secretary of HHS.<sup>2</sup> In September 2013, The CDC and HHS published a report detailing concerns with respect to antibiotic resistance.<sup>3</sup> Following the release of the report, President Obama tasked National Security Council (NSC) and the Office of Science and Technology Policy (OSTP) with creating an interagency policy committee to assess current and past threats with antibiotic resistance.<sup>4</sup> PCAST also solicited input from a variety of experts in both the human and animal health care industries and released its own report on combating antibiotic-resistant bacteria in September 2014.<sup>5</sup> With the release of PCAST’s report, President Obama signed Executive Order 13676, creating the National Strategy for Combating Antibiotic-Resistant Bacteria.<sup>6</sup> E.O. 13676 also established an interagency Task Force on Combating Antibiotic-Resistant Bacteria, made up of representatives from relevant government departments and agencies, to coordinate Strategy goals around various agency initiatives.<sup>7</sup>

### III. Structure

#### A. The Strategy

The Strategy strives to attain the overarching goal of prevention, detection and control of resistant bacteria with five specific and interrelated priorities.<sup>8</sup> These priorities broadly focus on preventing resistance through advances in medicine and coordination at both the national and international level.<sup>9</sup> In addition, the Strategy identifies “National Targets,” which address threats that the CDC labels as either serious or urgent with specific goals to be achieved by 2020.<sup>10</sup> The Task Force provides the President with update reports that include progress towards the five goals and the National Targets.<sup>11</sup>

#### B. The Task Force

The interagency Task Force for Combating Antibiotic Resistant Bacteria (“Task Force”) submits a National Action Plan to the President every five years that details implementation of the Strategy, including coordination across agencies and metrics for evaluation.<sup>12</sup> The most recent National Action Plan, released in March 2015, provides implementation steps and milestones through 2020.<sup>13</sup> The Secretaries of Defense, Agriculture, and Health and Human Services co-chair the Task Force,<sup>14</sup> and representatives from the National Security Council, The Office of Science and Technology Policy, Domestic Policy Council, and the Office of Management and Budget provide general oversight.<sup>15</sup> The Task Force also provides the President with an annual progress update that includes achievements, pitfalls, and recommendations for modifications or additional mechanisms.<sup>16</sup>

<sup>1</sup> The White House, National Strategy for Combating Antibiotic Resistant Bacteria (Sept. 2014) [hereinafter Combating Bacteria Strategy], [https://www.whitehouse.gov/sites/default/files/docs/carb\\_national\\_strategy.pdf](https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf).

<sup>2</sup> About PCAST, Office of Sci. & Tech. Pol'y, The White House, <https://www.whitehouse.gov/administration/eop/ostp/pcast/about> (last visited Jan. 5, 2017).

<sup>3</sup> Ctrs. Disease Control & Prevention & U.S. Dep't of Health & Human Servs., Antibiotic Resistance Threats in the United States, 2013, (Apr. 23, 2013), <http://www.cdc.gov/drugresistance/pdf/ar-threats-2013-508.pdf>.

<sup>4</sup> Combating Bacteria Strategy, *supra* note 1, at 6.

<sup>5</sup> President's Council of Advisors on Sci. & Tech., The White House, Report to the President on Combating Antibiotic Resistance (Sept. 2014), [https://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/pcast\\_carb\\_report\\_sept2014.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/pcast_carb_report_sept2014.pdf).

<sup>6</sup> Exec. Order No. 13676, 79 Fed. Reg. 56,931 (Sept. 18, 2014), <https://www.gpo.gov/fdsys/pkg/FR-2014-09-23/pdf/2014-22805.pdf>.

<sup>7</sup> President's Council on Combating Antibiotic-Resistant Bacteria., The White House, Initial Assessments of the National Action Plan for Combating Antibiotic-Resistant Bacteria 1 (Mar. 2016) [hereinafter Initial Assessments], <http://www.hhs.gov/sites/default/files/paccarb-final-report-03312016.pdf>.

<sup>8</sup> See Combating Bacteria Strategy, *supra* note 1, at 1–3, 5–6. ((1) “[s]low the emergence of resistant bacteria and prevent the spread of resistant infections;” (2) “[s]trenthen national One-Health surveillance efforts to combat resistance”; (3) “[a]dvance development and use of rapid and innovative diagnostic tests for identification and characterization of resistant bacteria”; (4) “[a]ccelerate basic and applied research and development for new antibiotics, other therapeutics, and vaccines”; and, (5) “[i]mprove international collaboration and capacities for antibiotic resistance . . .”).

<sup>9</sup> See id. at 5–6.

<sup>10</sup> Id. at 33.

<sup>11</sup> Id. at 24.

<sup>12</sup> Exec. Order No. 13676, 79 Fed. Reg. 56,931 (Sept. 18, 2014), <https://www.gpo.gov/fdsys/pkg/FR-2014-09-23/pdf/2014-22805.pdf>.

<sup>13</sup> The White House, National Action Plan for Combating Antibiotic-Resistant Bacteria 8 (Mar. 2015) [hereinafter Combating Bacteria Plan], [https://www.whitehouse.gov/sites/default/files/docs/national\\_action\\_plan\\_for\\_combating\\_antibiotic-resistant\\_bacteria.pdf](https://www.whitehouse.gov/sites/default/files/docs/national_action_plan_for_combating_antibiotic-resistant_bacteria.pdf).

<sup>14</sup> Exec. Order No. 13676, 79 Fed. Reg. 56,931.

<sup>15</sup> Id.

<sup>16</sup> Id.

### C. The Presidential Advisory Council

E.O. 15676 called for the co-chairs of the Task Force to establish the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (“Council”).<sup>17</sup> The Council consists of 15 experts and five organizations – this includes nonprofit and public health organizations as well as an industry group – and produces reports for the HHS Secretary with recommendations pursuant to the five priorities outlined in the Strategy.<sup>18</sup> In contrast to the Task Force, which is made up of government officials, the Advisory Council consists of external experts and advisors.<sup>19</sup> The Task Force and Advisory Council work hand-in-hand: the Task Force supplies the Council with the information it needs to fulfill its duties, and the Council provides the Task Force with reports, which the Task Force then relays to the President.<sup>20</sup>

### IV. Analysis

The Strategy provides in-depth opportunities for engagement of expert stakeholders – both within and outside of the government – on a pressing health matter. The Strategy takes a proactive stance, with reporting and accountability mechanisms to flag impending threats and advance proposals for areas of improved research.<sup>21</sup> Utilizing both an interagency working group (the Task Force) and a non-governmental advisory council (the Council), the Strategy ensures the active involvement of both stakeholder groups and also assigns them distinct roles.<sup>22</sup> In addition, the National Action Plan capitalizes on the specific expertise of key agencies and coordinates among them. For example, the FDA focuses on the veterinary health, while the Department of Defense focuses on repositories and general surveillance.<sup>23</sup> A recent six-month progress report notes many instances of agencies taking actions to align with the Strategy’s overall goals and National Targets.<sup>24</sup>

---

<sup>17</sup> Id.

<sup>18</sup> Establishment of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, U.S. Dep’t of Health & Human Serv. (Sept. 15, 2015) [hereinafter Presidential Advisory Council], <http://www.hhs.gov/about/news/2015/09/15/establishment-of-the-presidential-advisory-council-on-combating-antibiotic-resistant-bacteria>.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Antibiotic Resistance Threats in the United States, 2013, Ctrs. Disease Control & Prevention, <http://www.cdc.gov/drugresistance/threat-report-2013/>.

<sup>22</sup> Combating Bacteria Plan, *supra* note 13; Presidential Advisory Council, *supra* note 18.

<sup>23</sup> See Initial Assessments, *supra* note 7, at Annex I.

<sup>24</sup> See id.

## SECTION B.4: THE NATIONAL HIV/AIDS STRATEGY

### I. Introduction

The National HIV/AIDS Strategy deals with the crisis of HIV/AIDS on a national level, with the goals of reducing rates of infection and providing broader, more comprehensive access to necessary health care.<sup>1</sup>

### II. History

In 1987, experts estimated that up to 1.5 million Americans were infected with HIV/AIDS.<sup>2</sup> Congress established the U.S. National Commission on AIDS in 1988,<sup>3</sup> which was active until September 1993.<sup>4</sup> The National Commission included the only member of Congress who was a physician, as well as outside advisors from the public health field.<sup>5</sup> In 1995, President Clinton directed the Secretary of Health and Human Services (HHS) to establish the Presidential Advisory Council on HIV/AIDS (PACHA) and the White House Office of National AIDS Policy (ONAP), which were tasked with providing initial advice and recommendations for implementing a National HIV/AIDS strategy.<sup>6</sup> However, it was not until early in President Obama's first term that PACHA and ONAP drafted a Strategy,<sup>7</sup> due in part to President Bush's focus on international HIV/AIDS issues during his presidency.<sup>8</sup> HIV/AIDS activism remained strong in the United States during the Bush presidency, and interested stakeholders even created a blueprint for what a national strategy might look like.<sup>9</sup>

This community-level interest in a national HIV/AIDS strategy led the Obama administration to eventually employ grassroots measures in the creation of the Strategy. In 2009, ONAP solicited public input, which included 14 community discussions attended by more than 4,200 people across the US and an online forum that allowed for over 1,000 written submissions, for a period of three months.<sup>10</sup> This engagement involved people from different socioeconomic backgrounds, as well as representation by communities of color and the LGBT community.<sup>11</sup> The Strategy, the first cohesive strategy on HIV/AIDS at a national level, was released in 2010.<sup>12</sup> An update, which involved similar processes for community engagement, was released in 2015.<sup>13</sup>

### III. Structure

#### A. Office of National AIDS Policy (ONAP)

ONAP is part of the White House Domestic Policy Council and is responsible for monitoring implementation of the National HIV/AIDS Strategy and reporting to the President on its progress.<sup>14</sup> This includes gathering annual data update reports from lead implementation agencies and holding regular meetings with other federal and non-federal partners.<sup>15</sup> ONAP also works with the Office of Management and Budget (OMB) in monitoring the strategy.<sup>16</sup> In addition, ONAP coordinates with the National Security Council and the Office of the Global AIDS Coordinator to ensure that domestic HIV/AIDS priorities are aligned with international concerns, commitments, and priorities.<sup>17</sup>

#### B. The Strategy

The Strategy was first released in 2010 and enumerated three "top-line priorities" in the national fight against HIV/AIDS: (1) reduce HIV incidence; (2) increase access to care and optimize health outcomes for those living with HIV; and (3) reduce HIV-related disparities.<sup>18</sup> Each top-line priority included "action steps" and quantitative "targets" to achieve by 2015.<sup>19</sup>

<sup>1</sup> Office of Nat'l AIDS Pol'y, The White House, National HIV/AIDS Strategy for the United States (July 2010) [hereinafter National HIV/AIDS Strategy], <https://www.whitehouse.gov/sites/default/files/uploads/NHAS.pdf>.

<sup>2</sup> Lawrence K. Altman, Fact, Theory and Myth on the Spread of AIDS, N.Y. Times (Feb. 15, 1987), <http://www.nytimes.com/1987/02/15/us/fact-theory-and-myth-on-the-spread-of-aids.html?pagewanted=all>.

<sup>3</sup> National Commission on Acquired Immune Deficiency Syndrome Act, Pub. L. No. 100–607 (1988), [https://history.nih.gov/research/downloads/PL100-607\\_000.pdf](https://history.nih.gov/research/downloads/PL100-607_000.pdf).

<sup>4</sup> David E. Rogers, The Influence of Attitudes on the Response to AIDS in the United States, 169 J. Infectious Diseases 1201, 1204 (June 1994), [https://www.jstor.org/stable/pdf/3014046.pdf?\\_i=1460144460950](https://www.jstor.org/stable/pdf/3014046.pdf?_i=1460144460950).

<sup>5</sup> Victoria Harden, AIDS at 30: A History 111 (Potomac Books 2012).

<sup>6</sup> Exec. Order No. 12963, 60 Fed. Reg. 31,905 (June 14, 1995), <https://www.gpo.gov/fdsys/pkg/FR-1995-06-16/pdf/95-14983.pdf>.

<sup>7</sup> National HIV/AIDS Strategy, *supra* note 1.

<sup>8</sup> President's HIV/AIDS Initiatives, Office of Nat'l AIDS Pol'y, The White House, <http://georgewbush-whitehouse.archives.gov/infocus/hivaids/> (last visited Jan. 5, 2017).

<sup>9</sup> Chris Collins, Open Soc'y Inst. Pub. Health Program, Blueprint for a National AIDS Plan for the United States 5 (2007).

<sup>10</sup> Recent Activities in Developing the National HIV/AIDS Strategy, Office of Nat'l AIDS Pol'y., The White House, <https://www.whitehouse.gov/administration/eop/onap/nhas/activities> (last visited Jan. 5, 2017); Office of Nat'l AIDS Pol'y., The White House, Community Ideas for Improving the Response to the National HIV Epidemic: A Report on a National Dialogue on HIV/AIDS 3 (Apr. 2010) [hereinafter 2010 Community Ideas for HIV], [https://www.whitehouse.gov/sites/default/files/microsites/ONAP\\_rpt.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ONAP_rpt.pdf).

<sup>11</sup> White House, National HIV/AIDS Strategy for the United States: Updated to 2020 (July 2015) [hereinafter National HIV/AIDS Strategy 2020], <https://www.aids.gov/federal-resources/national-hiv-aids-strategy/nhas-update.pdf>.

<sup>12</sup> 2010 Community Ideas for HIV, *supra* note 10.

<sup>13</sup> Douglas M. Brooks, What They're Saying: Release of the Updated National HIV/AIDS Strategy, White House: Blog (Aug. 6, 2015, 12:13 PM), <https://www.whitehouse.gov/blog/2015/08/06/what-they-re-saying-release-updated-national-hivaids-strategy>. (Groups ranging from Advocates for Youth, to the National Black Women's HIV/AIDS Network, to the San Francisco AIDS foundation all expressed support for the strategy.).

<sup>14</sup> Exec. Order No. 13703, 80 Fed. Reg. 46,181 (July 30, 2015), <https://www.gpo.gov/fdsys/pkg/FR-2015-08-04/pdf/2015-19209.pdf>.

<sup>15</sup> National HIV/AIDS Strategy 2020, *supra* note 11, at 7–8.

<sup>16</sup> About ONAP, The White House, <https://www.whitehouse.gov/administration/eop/onap/about> (last visited Jan. 5, 2017).

<sup>17</sup> *Id.*

The Strategy has mechanisms to review and chart its process, and also provide continued updates. The Department of Health and Human Services, as well as the Departments of Justice, Labor, Housing and Urban Development, and Veterans Affairs, provide “update” reports to ONAP on an annual basis, such as a report released in 2014 studying the impact of the National Strategy on the HIV care continuum.<sup>20</sup> ONAP submits these reports, as well as data on Strategy metrics, to the President as part of the Strategy’s annual report.<sup>21</sup> Further, ONAP holds regular meetings with federal and non-federal partners to brief them on Strategy progress and keep them engaged.<sup>22</sup>

In July 2015, ONAP released an updated National HIV/AIDS Strategy that will guide domestic HIV/AIDS policy through 2020.<sup>23</sup> The update reflects policy and scientific advances that have occurred since the Strategy was first released in 2010,<sup>24</sup> including new and revised quantitative indicators to monitor the progress of the plan and a greater emphasis on national, state, tribal, and local engagement.<sup>25</sup>

### C. Federal Implementation Plan

ONAP released the Strategy in conjunction with a more nuanced Federal Implementation Plan (FIP).<sup>26</sup> The FIP addresses administering the Strategy in HHS, as well as in the Departments of Justice, Labor, Housing and Urban Development, and Veterans Affairs.<sup>27</sup> The FIP contains information on quantitative indicators to monitor progress, and breaks every priority into various steps, each of which lists sub-steps with a designated timeframe, lead agency or other agency, and “actions to be performed.”<sup>28</sup>

### D. Presidential Advisory Council on HIV/AIDS (PACHA)

PACHA is “solely advisory in nature,” providing advice, information, and recommendations to the HHS Secretary.<sup>29</sup> PACHA can also propose resolutions to the President and Congress on matters of HIV/AIDS policy. PACHA can have up to 25 members, including the Chair, who are appointed by the Secretary of Health and Human Services (HHS), or a designee, in consultation with ONAP.<sup>30</sup> PACHA members serve overlapping terms of up to four years<sup>31</sup> and have backgrounds in HIV/AIDS, community organizing, public health, global health, philanthropy, marketing, or business.<sup>32</sup>

## IV. Analysis

The National HIV/AIDS Strategy engaged various stakeholder groups at a grassroots level in its creation and, moreover, transparently highlighted ideas that came directly from these stakeholders.<sup>33</sup> With both the original Strategy and the updated version, participation took place across a variety of forums and mediums, allowing community stakeholders to participate in the ways in which they felt most comfortable. Much of this participation-driven model reflects the efforts of HIV/AIDS activists in the years leading up to the creation of the Strategy. Under President Obama, PACHA and ONAP have carved out complementary domains: PACHA provides advice to decision makers, and ONAP coordinates the development and implementation of the Strategy and its various initiatives. The Strategy underwent a formal update after five years yet remains flexible to continued feedback, whether changes in science or technology or changes in the needs and priorities of affected stakeholder groups.<sup>34</sup>

<sup>18</sup> Gregorio A. Millett et al., *A Way Forward: The National HIV/AIDS Strategy and Reducing HIV Incidence in the United States*, 55 J. Acquired Immunodeficiency Syndrome S144, S145 (2010), <http://journals.lww.com/jaids/toc/2010/12152>.

<sup>19</sup> Id.

<sup>20</sup> See, e.g., Office of Nat'l AIDS Pol'y, The White House, *National HIV/AIDS Strategy: Update of 2014 Federal Actions to Achieve National Goals and Improve Outcomes Along the HIV Care Continuum* (Dec. 2014), [https://www.whitehouse.gov/sites/default/files/docs/nhas\\_2014\\_progress\\_report\\_final\\_2.pdf](https://www.whitehouse.gov/sites/default/files/docs/nhas_2014_progress_report_final_2.pdf).

<sup>21</sup> National HIV/AIDS Strategy 2020, *supra* note 11, at 7.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> National HIV/AIDS Strategy, *supra* note 1, at vii; Office of Nat'l AIDS Pol'y, The White House, *National HIV/AIDS Strategy Federal Implementation Plan (July 2010)*, <https://www.whitehouse.gov/files/documents/nhas-implementation.pdf>.

<sup>27</sup> Id.

<sup>28</sup> Id. at 10–30.

<sup>29</sup> Exec. Order No. 12963, 60 Fed. Reg. 31,905 (June 14, 1995), <https://www.gpo.gov/fdsys/pkg/FR-1995-06-16/pdf/95-14983.pdf>.

<sup>30</sup> Charter: Presidential Advisory Council on HIV/AIDS, U.S. Dep't of Health & Human Servs. 4 (Jan. 15, 2016), <https://www.aids.gov/federal-resources/pacha/pacha-charter.pdf>.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> 2010 Community Ideas for HIV, *supra* note 10, at 7.

<sup>34</sup> National HIV/AIDS Strategy 2020, *supra* note 11.

## SECTION B.5: THE PRESIDENT'S CLIMATE ACTION PLAN

### I. Introduction

The Climate Action Plan is a collection of executive-based strategies for reducing carbon pollution and preparing the United States to deal with climate change both nationally and internationally.<sup>1</sup>

### II. History

The Executive Office of the President released the Climate Action Plan ("Plan") in June, 2013.<sup>2</sup> After the then-Republican-dominated Congress prevented the passage of three different pieces of legislation for reducing greenhouse gas emissions,<sup>3</sup> President Obama released a plan that relied on executive powers.<sup>4</sup>

### III. Structure

The Plan is a twenty-one page document detailing climate initiatives across the federal government.<sup>5</sup> The Plan serves two main purposes: 1) facilitating the reduction of U. S. greenhouse gas emissions by 17% of 2005 levels by the year 2020 and 2) preparing the government, the nation, and the world for climate change.<sup>6</sup> The Plan attempts to meet these goals by providing a compilation of previously-announced Presidential Memoranda and other executive actions to reduce the impact of agency activities on the environment.<sup>7</sup> While some of the various executive actions detailed in the Plan include timelines,<sup>8</sup> these timelines largely direct the agencies to act quickly such that key regulations were least initiated before the end of President Obama's second term.<sup>9</sup>

There are three pillars to the President's Climate Action Plan. The first pillar aims to cut domestic carbon pollution by employing a variety of executive actions. For instance, it encourages the Department of Interior to double renewable energy on public lands by 2020.<sup>10</sup> Some of the executive actions in the first pillar encourage interagency collaboration,<sup>11</sup> and others encourage federal collaboration with state and local agencies.<sup>12</sup> For the most part, these actions provide agencies only with broader goals, and leave the process of enactment to the agencies themselves.<sup>13</sup> The second pillar fortifies the United States against the dangers of climate change by creating a number of task forces that will advise the federal government on how to prepare smaller communities for the effects of climate change and help rebuild after climate change-related natural disasters.<sup>14</sup> This includes enlisting industry experts in various fields, ranging from insurance to agriculture, to collaborate with federal agencies.<sup>15</sup> The third pillar addresses the ways in which the United States can demonstrate leadership in international climate change. It explains how the executive branch intends to encourage bilateral climate cooperation with China, India, and Brazil; participate in bilateral and regional deforestation prevention programs; and create initiatives and agreements with countries around the world to support strategies for reduced emissions.<sup>16</sup>

<sup>1</sup> Exec. Office of the President, The White House, The President's Climate Action Plan 5 (June 2013) [hereinafter Climate Action Plan], <http://www.whitehouse.gov/sites/default/files/image/president27climateactionplan.pdf>.

<sup>2</sup> Jane A. Leggett, Cong. Research Serv., R43120, President Obama's Climate Action Plan (May 28, 2014), <https://www.fas.org/sgp/crs/misc/R43120.pdf>.

<sup>3</sup> American Clean Energy and Security Act of 2009, H.R.2454, 111th Cong. (2009), <https://www.congress.gov/bill/111th-congress/house-bill/2454>; Climate Stewardship Act, S.139, 108th Cong. (2003), <https://www.govtrack.us/congress/bills/108/s139>; Climate Stewardship Act, H.R. 759, 109th Cong. (2005); S.324, 109th Cong. (2005), <https://www.govtrack.us/congress/bills/109/hr759>.

<sup>4</sup> Coral Davenport, Obama's Strategy on Climate Change, Part of Global Deal, Is Revealed, N.Y. Times (Mar. 31, 2015), <http://www.nytimes.com/2015/04/01/us/obama-to-offer-major-blueprint-on-climate-change.html>.

<sup>5</sup> Climate Action Plan, *supra* note 1.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> Jane Leggett, *supra* note 2, at 1–2.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> Coral Davenport, Obama's Strategy on Climate Change, Part of Global Deal, Is Revealed, N.Y. Times (Mar. 31, 2015), <http://www.nytimes.com/2015/04/01/us/obama-to-offer-major-blueprint-on-climate-change.html>.

<sup>10</sup> Climate Action Plan, *supra* note 1, at 7.

<sup>11</sup> *Id.* at 10–12.

<sup>12</sup> *Id.* at 9–10.

<sup>13</sup> Jane Leggett, *supra* note 2, at 3–6.

<sup>14</sup> Climate Action Plan, *supra* note 1, at 13–14.

<sup>15</sup> *Id.* at 17–21.

<sup>16</sup> *Id.*

#### **IV. Analysis**

The Plan stands as an example of how the government can assess, address and mitigate potential threats to national interests. Yet, given the politically contentious nature of climate change, the Plan uses the existing authorities of the executive branch to avoid Congressional roadblocks on climate change legislation.<sup>17</sup> Moreover, the Plan is flexible and allows for local tailoring of certain requirements, such as encouraging the creation of local plans for reducing energy waste.<sup>18</sup> The Plan is also approachable, employing the use of infographics to help various stakeholders, including the public, understand its many factors.<sup>19</sup>

Though the Plan proposed a variety of interventions for climate change, it did not provide specific metrics or goals.<sup>20</sup> Furthermore, its reliance on the executive branch reduces the Plan's chances of longevity. The new administration can overturn the Plan or Congress could pass legislation to quash its efforts and existing impacts.<sup>21</sup>

---

<sup>17</sup> Megan Clark, Obama's Climate Action Plan Gets Mixed Reviews, Int'l Bus. Times (June 25, 2014), <http://www.ibtimes.com/obamas-climate-action-plan-gets-mixed-reviews-1611572>.

<sup>18</sup> Climate Action Plan, *supra* note 1, at 9–10.

<sup>19</sup> President Obama's Plan to Fight Climate Change, The White House (Jun. 25, 2013), <https://www.whitehouse.gov/share/climate-action-plan>.

<sup>20</sup> Jane Leggett, *supra* note 2, at Summary.

<sup>21</sup> Coral Davenport, *supra* note 9.

## **SECTION B.6: THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES, 9/11 COMMISSION**

### **I. Introduction**

The 9/11 Commission coordinated the investigation of the 9/11 attacks, releasing a report on the causes of the attacks as well as proposed recommendations for increased national security measures.<sup>1</sup>

### **II. History**

The House and Senate's Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001 performed an initial investigation into the causes of 9/11, prior to the creation of the 9/11 Commission.<sup>2</sup> While the Joint Inquiry revealed the scope and implications of the intelligence failure to prevent the attack, key parts of the Joint Inquiry's findings were designated as secret, which prompted the families of 9/11 victims to call for an independent commission.<sup>3</sup> In November 2002, Congress passed the 2003 Intelligence Authorization Act, which established the 9/11 Commission.<sup>4</sup> The Act specified that the Commission should be independent and bipartisan and tasked it with (1) determining the events and failures that led up to the 9/11 attacks and (2) recommending how to prevent future attacks.<sup>5</sup>

### **III. Structure**

#### **A. The 9/11 Commission**

The 2003 Intelligence Authorization Act ensured that the 10-member 9/11 Commission would be bi-partisan, stating that not more than five members of the Commission could be from the same party.<sup>6</sup> It gave the President the power to appoint the chair of the Commission; the leader of the Senate of the Democratic Party the power to appoint the vice-chair of the Commission; and the senior member of each party in each house the power to appoint two members.<sup>7</sup> The Federal Advisory Committee Act's transparency requirements did not apply to the Commission;<sup>8</sup> only the final report was compulsory, but interim reports and public meetings were optional.<sup>9</sup>

#### **B. The 9/11 Commission Report**

After reviewing 2.5 million documents and interviewing 1,200 people, including 160 witnesses, the Commission released its final report in July, 2004.<sup>10</sup> The 9/11 Commission Report was widely disseminated — by 2011, more than six million people had downloaded the report.<sup>11</sup> The Report included 41 recommendations for safeguarding against terrorist threats.<sup>12</sup> Congress addressed most of these recommendations with the Intelligence Reform and Terrorism Prevention Act of 2004.<sup>13</sup>

In 2011, the 9/11 Commission's chair and vice-Chair led an independent group to evaluate the implementation of the recommendations.<sup>14</sup> The group found that Congress and the Executive had implemented most of the Report's recommendations, but nine goals remained "unfulfilled" or needed improvement.<sup>15</sup> For example, new procedures for biometric screening and uniform security screenings, as recommended by the Commission, had not been fully implemented.<sup>16</sup>

---

<sup>1</sup> Intelligence Authorization Act for Fiscal Year 2003, P.L. 107-306, 116 Stat. 2383 (2002); Nat'l Comm'n. on Terrorist Attacks Upon the U.S., The 9/11 Commission Report (2004) [hereinafter 9/11 Report], <http://avalon.law.yale.edu/sept11/911Report.pdf>.

<sup>2</sup> S. Rep. No. 107-351 (2002); H. Rep. No. 107-792 (2002), [http://fas.org/irp/congress/2002\\_rpt/911rept.pdf](http://fas.org/irp/congress/2002_rpt/911rept.pdf).

<sup>3</sup> Athan G. Theoharis et al., The Central Intelligence Agency: Security Under Scrutiny 222–224 (2006).

<sup>4</sup> Intelligence Authorization Act for Fiscal Year 2003, P.L. 107-306, 116 Stat. 2383 (2002); 9/11 Report, *supra* note 1, at xv.

<sup>5</sup> Intelligence Authorization Act for Fiscal Year 2003, P.L. 107-306 §§ 602–603, 116 Stat. 2383 (2002).

<sup>6</sup> *Id.* at § 603.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at § 606.

<sup>9</sup> *Id.* at § 610.

<sup>10</sup> The Commission heard testimony from 160 witnesses and held 19 days of hearings. 9/11 Report, *supra* note 1, at xv.

<sup>11</sup> Gail Russell Chaddock, 9/11 Lessons Not Learned: Three Failed Reforms, Christian Sci. Monitor (Sept. 8, 2011), <http://www.csmonitor.com/USA/Politics/2011/0908/9-11-lessons-not-learned-three-failed-reforms>.

<sup>12</sup> 9/11 Report, *supra* note 1, at 367–428.

<sup>13</sup> Richard F. Frimmett, Cong. Research. Serv., RL33742, 9/11 Commission Recommendations: Implementation Status 6–9 (Dec. 4, 2006), <https://www.fas.org/sgp/crs/homesec/RL33742.pdf>.

<sup>14</sup> Nat'l Sec. Preparedness Grp., Bipartisan Pol'y Ctr., The Tenth Anniversary Report Card: The Status of the 9/11 Commission Recommendations, 3 (Sept. 2011) <http://bipartisanpolicy.org/wp-content/uploads/sites/default/files/CommissionRecommendations.pdf>.

<sup>15</sup> *Id.* at 6, 10.

<sup>16</sup> *Id.* at 10.

#### IV. Analysis

The high-profile, bipartisan nature of the Commission was valuable for ensuring attention to the Commission's Report, and the implementation of many of its recommendations.<sup>17</sup> In particular, the carefully prescribed process for selecting the Commission's members signaled that the Commission would not – and should not – be beholden to any one party. The Commission faithfully pursued its statutory mandate<sup>18</sup> to conduct a thorough investigation, sometimes encountering roadblocks along the way; for example, the Commission issued a subpoena to compel New York City to release certain documents and tapes.<sup>19</sup> Despite its broad powers to compel information, the Commission encountered some pushback from the CIA around sensitive topics, such as the interrogation of Al Qaeda operatives.<sup>20</sup> Even when the Commission had access to sensitive materials, it was dogged by the public perception that the White House and other government officials edited materials made available to the Commission.<sup>21</sup>

The collective, public need for more information – and, preferably, concrete answers – set the bar high for the Report. On the one hand, the Report was widely disseminated and intentionally accessible; its language was not too technical and it included features such as eyewitness accounts of 9/11.<sup>22</sup> The co-chairs of the Commission also wrote a forward for a graphic version of the Report produced by an artist.<sup>23</sup> On the other hand, some commentators – pointing, in part, to the obfuscations of the CIA – felt that the Report did not give a complete picture of what happened and/or go far enough in holding the government accountable.<sup>24</sup>

---

<sup>17</sup> Mark Fenster, Designing Transparency: The 9/11 Commission and Institutional Form, 65 Wash. & Lee L. Rev. 1239, 1318 (2008), <http://scholarship.law.ufl.edu/facultypub/44>.

<sup>18</sup> Intelligence Authorization Act for Fiscal Year 2003, P.L. 107-306 § 603, 116 Stat. 2383 (2002).

<sup>19</sup> Statement by Thomas H. Kean, Chair, and Lee H. Hamilton, Vice Chair of the 9-11 Commission, Nat'l Comm'n on Terrorist Attacks Upon the U.S. (Dec. 3, 2003), [http://govinfo.library.unt.edu/911/press/pr\\_2003-12-03.pdf](http://govinfo.library.unt.edu/911/press/pr_2003-12-03.pdf).

<sup>20</sup> Mark Mazzetti, 9/11 Panel Study Finds that CIA Withheld Tapes, N.Y. Times (Dec. 22, 2007), <http://www.nytimes.com/2007/12/22/washington/22intel.html>.

<sup>21</sup> Thomas H. Kean & Lee H. Hamilton, 9/11 Panel: Free to Probe, The Washington Post (Nov. 15, 2003), [https://www.washingtonpost.com/archive/opinions/2003/11/15/911-panel-free-to-probe/e9aeb927-3bb2-4203-8896-0c608a6b3e0e/?utm\\_term=.d9fb49ba8710](https://www.washingtonpost.com/archive/opinions/2003/11/15/911-panel-free-to-probe/e9aeb927-3bb2-4203-8896-0c608a6b3e0e/?utm_term=.d9fb49ba8710).

<sup>22</sup> The Commission heard testimony from 160 witnesses and held 19 days of hearings. 9/11 Report, *supra* note 1, at xv.

<sup>23</sup> Jacqueline Blais, 9/11 Report Writers Strived for Readability, USA Today (Aug. 18, 2004), [http://usatoday30.usatoday.com/life/books/news/2004-08-18-911report\\_x.htm](http://usatoday30.usatoday.com/life/books/news/2004-08-18-911report_x.htm).

<sup>24</sup> Benjamin DeMott, Whitewash as Public Service: How the 9/11 Commission Report Defrauds the Nation, Harper's Magazine, (Oct. 2004), <https://harpers.org/archive/2004/10/whitewash-as-public-service/>.

## **SECTION B.7: INTERAGENCY WORKING GROUP ON ENVIRONMENTAL JUSTICE (EJ IWG)**

### **I. Introduction**

The Interagency Working Group on Environmental Justice (EJ IWG) comprises the heads of 17 federal agencies tasked with identifying and rectifying the disparate impact that their agencies may have on the health or environments of minority and low-income populations.<sup>1</sup>

### **II. History**

Starting in the mid-1980s, local communities throughout the country with high minority populations began to protest the disproportionate number of “locally undesirable land uses” (LULUs), such as hazardous waste disposal sites, located in their neighborhoods.<sup>2</sup> Due to these concerns, the House of Representatives ordered the General Accounting Office (GAO), now the Government Accountability Office, to assess the protester’s claims.<sup>3</sup> The GAO confirmed that there was a higher distribution of LULUs in low-income, minority communities.<sup>4</sup>

In February 1994, President Clinton responded to community groups’ outcries and the GAO’s findings by signing Executive Order 12898, which established the Environmental Justice IWG. E.O.<sup>5</sup> 12898 tasks federal agencies with identifying and rectifying policies that have an unfair impact on health or the environment in minority and low income areas.<sup>6</sup> The Executive Order also makes the Environmental Protection Agency (EPA) the lead agency in the EJ IWG and orders federal agencies to create their own environmental justice strategies.<sup>7</sup>

### **III. Structure**

The role of the EJ IWG is supervisory and facilitative. In its supervisory capacity, the EJ IWG may require regular updates from all member agencies, approve agency strategies to ensure implementation consistency, and report to the President on the current state of the environmental justice program.<sup>8</sup> In its facilitative capacity, the EJ IWG provides guidance on identifying abuses of environmental justice<sup>9</sup> and conducts research into environmental justice issues.<sup>10</sup>

In 2011, the EJ IWG adopted a charter, which established the EJ IWG’s organizational structure.<sup>11</sup> This charter creates a number of permanent and ad hoc committees, including committees on public participation, implementation progress, the Civil Rights Act, and NEPA requirements.<sup>12</sup> The committees comprise agency leaders and staff representatives of the member agencies.<sup>13</sup>

---

<sup>1</sup> Exec. Order No. 12898 § 1-101-02, 59 Fed. Reg. 7629 (Feb. 11, 1994), <https://www.archives.gov/federal-register/executive-orders/pdf/12898.pdf>. The Group includes the heads of the Department of Defense; Department of Health and Human Services; Department of Housing and Urban Development; Department of Labor; Department of Agriculture; Department of Transportation; Department of Justice; Department of the Interior; Department of Commerce; Department of Energy; Environmental Protection Agency; Office of Management and Budget; Office of Science and Technology Policy; Office of the Deputy Assistant to the President for Environmental Policy; Office of the Assistant to the President for Domestic Policy; National Economic Council; and Council of Economic Advisers.

<sup>2</sup> Major Willie A. Gunn, From the Landfill to the Other Side of the Tracks: Developing Empowerment Strategies to Alleviate Environmental Injustice, 22 Ohio N.U. L. Rev. 1227, 1228–30 (1996).

<sup>3</sup> U.S. Gov’t Accountability Off., GAO-83-169, Siting of Hazardous Waste Landfills and Their Correlation with Economic Status of Surrounding Communities (1983), <http://archive.gao.gov/d48t13/121648.pdf>.

<sup>4</sup> Id. at 1–2.

<sup>5</sup> Major Willie A. Gunn, *supra* note 2, at 1230; Federal Interagency Working Group on Environmental Justice (EJ IWG), Envtl Prot. Agency, <https://www.epa.gov/environmentaljustice/federal-interagency-working-group-environmental-justice-ej-iwg> (last updated Nov. 15, 2016).

<sup>6</sup> Exec. Order No. 12898 § 1-101-02, 59 Fed. Reg. 7629.

<sup>7</sup> Exec. Order No. 12898 § 1-102, 59 Fed. Reg. 7629.

<sup>8</sup> Exec. Order No. 12898 § 1-102(c), 1-103(g), 1-104, 59 Fed. Reg. 7629.

<sup>9</sup> Exec. Order No. 12898 § 1-102(b), 59 Fed. Reg. 7629.

<sup>10</sup> Exec. Order No. 12898 § 1-102(b), 59 Fed. Reg. 7629.

<sup>11</sup> Charter: Interagency Working Group on Environmental Justice, Envtl. Prot. Agency [hereinafter EJ IWG Charter], <https://www.epa.gov/sites/production/files/2015-02/documents/iwg-charter-2011.pdf>.

<sup>12</sup> Fed. Interagency Working Grp. on Envtl. Justice, EJ IWG Framework for Collaboration Fiscal Years 2016–2018 4 (Mar. 2016), [https://www.epa.gov/sites/production/files/2016-04/documents/ej\\_iwg\\_framework\\_for\\_collaboration\\_fy2016-2018\\_0.pdf](https://www.epa.gov/sites/production/files/2016-04/documents/ej_iwg_framework_for_collaboration_fy2016-2018_0.pdf).

#### **IV. Analysis**

The creation of the EJ IWG in direct response to public outcry demonstrates that community needs can be heard at the federal level and, moreover, met with executive action. The EJ IWG has remarkable longevity considering its genesis from an Executive Order and its survival through three administrations.<sup>14</sup> Yet, the EJ IWG does not have the ability make enforceable regulations on its own nor compel its member agencies to make enforceable regulations.<sup>15</sup> EJ IWG's reliance on the executive branch means that its activities are subject to the political position of the President. Although the EJ IWG endured through President Bush's administration, its implementation was stalled and stakeholder engagement all but ceased.<sup>16</sup> Some critics note that, even under the Obama Administration, the EJ IWG does not go far enough towards engaging affected stakeholder groups.<sup>17</sup> Indeed, those who are most affected are often those who are most overlooked and underrepresented, and effectively engaging these communities requires additional, proactive measures.

---

<sup>13</sup> *Id.*

<sup>14</sup> Patrice Lumumba Simms, *On Diversity And Public Policymaking: An Environmental Justice Perspective*, 13 Sustainable Dev. L. & Pol'y 14, 18–19 (2012–13).

<sup>15</sup> Jeanne Marie Zokovitch Paben, *Green Power & Environmental Justice—Does Green Discriminate?*, 46 Tex. Tech L. Rev. 1067, 1098–99 (2014).

<sup>16</sup> Patrice Lumumba Simms, *supra* note 14, at 18.

<sup>17</sup> David Konisky, *Failed Promises: Evaluating the Federal Government's Response to Environmental Justice* 3 (Mar. 27, 2015)

## SECTION B.8: NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

### I. Introduction

The National Environmental Policy Act of 1969 (NEPA) is a procedural statute which requires that federal agencies formally evaluate the impact of their actions on the environment.<sup>1</sup>

### II. History

Prior to NEPA, there was no clear statutory guidance for how federal agencies should address environmental concerns in their decision-making.<sup>2</sup> By the late 1960s, it had become apparent that there was little space for effective environmental policy-making at the federal level because “conflicting priorities . . . worked at cross-purposes, resulting in interagency conflict and waste of effort and public money.”<sup>3</sup> In response to public concerns about how agency activities might affect the environment and how provide better coordination among agencies, Congress passed NEPA in 1969.<sup>4</sup>

Under NEPA, federal agencies must publicly release detailed statements that assess the environmental impact of a proposed agency action.<sup>5</sup> These statements are known as Environmental Impact Statements (EIS).<sup>6</sup> NEPA also established the Council on Environmental Quality (CEQ) within the Executive Office of the President to oversee and coordinate agency compliance, monitor broader trends within the environment, and make recommendations to the President.<sup>7</sup>

### III. Structure

#### A. The Statute

NEPA is a procedural statute. This means that agencies must follow NEPA’s procedures for filing, evaluating, and reporting the potential environmental impacts of its actions; however, NEPA does not require agencies change alter their actions to achieve a certain outcome.<sup>8</sup> Indeed, agencies can choose to follow a course of action that may lead to significant, negative environmental impacts, so long as they have complied with NEPA’s procedural requirements. Private individuals or companies may also be affected by NEPA’s requirements.<sup>9</sup> If a private party needs a permit from a federal agency – such as a special use permit for crossing a national wildlife refuge from the U.S. Fish and Wildlife Service or a permit to discharge construction material into waterways from the U.S. Army Corps of Engineers – that agency must follow NEPA’s requirements, even though ultimate actor is not the agency.<sup>10</sup>

#### B. NEPA actions

Under the NEPA framework, there are three levels of actions: (1) categorically excluded actions, (2) actions requiring an Environmental Assessment (EA), and (3) actions requiring an EIS.<sup>11</sup> Actions are categorically excluded from NEPA requirements if they do not have a significant environmental impact.<sup>12</sup> If the possibility for significant environmental impacts remains unclear, then an agency must conduct an EA to explore the rationale behind the proposal, any alternatives to the proposal, and the environmental impacts of those alternatives.<sup>13</sup> If significant environmental impacts are likely to result from the proposed action, the agency must prepare an EIS.<sup>14</sup> When completing an EIS, agencies must disclose the full scope of the proposed action and give the public a chance to comment.<sup>15</sup>

<sup>1</sup> Linda Luther, Cong. Research Serv., RL33152, National Environmental Policy Act: Background and Implementation 1 (2005), [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Unit1\\_01CRSReport.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Unit1_01CRSReport.pdf); see also National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 854 (codified as amended at 42 U.S.C. §§ 4321-47 (2012)).

<sup>2</sup> Ray Vaughan, Necessity and Sufficiency of Environmental Impact Statements Under the National Environmental Policy Act, 38 Am. Jur. Proof of Facts 3d 547 § 1 (Feb. 2016).

<sup>3</sup> Lynton Keith Caldwell, The National Environmental Policy Act 74 (1999).

<sup>4</sup> See Linda Luther, *supra* note 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> National Environmental Policy Act of 1969, Pub.L. 91-190, 83 Stat. 854 (codified as amended at 42 U.S.C. § 4344 (2012)).

<sup>8</sup> Linda Luther, *supra* note 1, at 1.

<sup>9</sup> *Id.* at 1-2.

<sup>10</sup> Council on Envtl. Quality, Exec. Office of the President, A Citizen’s Guide to the NEPA 4 (Dec. 2007) [hereinafter NEPA Citizen’s Guide], [http://www.transwestexpress.net/about/docs/A\\_Citizens\\_Guide\\_to\\_NEPA.pdf](http://www.transwestexpress.net/about/docs/A_Citizens_Guide_to_NEPA.pdf).

<sup>11</sup> *Id.* at 9.

<sup>12</sup> *Id.* at 10–11.

<sup>13</sup> *Id.* at 11–12.

<sup>14</sup> *Id.* at 11–13.

<sup>15</sup> Linda Luther, *supra* note 1, at 18, 20.

### C. The Council on Environmental Quality (CEQ)

The CEQ and the Environmental Protection Agency both play key roles in the application of NEPA. The CEQ analyzes the current state and trend of the environment quality, reviews and assesses agencies' NEPA compliance activities, and reports its findings to the President.<sup>16</sup> The CEQ issues binding regulations for minimum procedural standards and encourages agencies to create additional requirements based on specific agency goals or needs.<sup>17</sup> In addition, the CEQ acts as an arbiter if conflicts between agencies arise.<sup>18</sup> The Environmental Protection Agency, on the other hand, reviews all draft EISs and, if it finds an EIS lacking, may refer the matter to the CEQ for further review.<sup>19</sup>

## IV. Analysis

NEPA provides the federal government with the tools to monitor agency actions with respect to the environment and ameliorate potential conflicts that arise between agencies, given their varied purposes.<sup>20</sup> While NEPA requires that agencies assess their actions, flexibility is built into its processes, which are easily tailored to specific agencies and actions. CEQ sets minimum requirements that agencies must meet, but it also encourages agencies to create their own procedures so long as they meet the minimum standards.<sup>21</sup> The EIS process also provides multiple opportunities for stakeholder and public input – agencies must notify the public of a proposed action in the Federal Register; identify all potential stakeholders and invite them to participate in the EIS process; and publish the draft EIS in the federal register and collect public comments for at least 45 days.<sup>22</sup> Though it is challenging to halt agency action under NEPA<sup>23</sup> and impossible to compel it,<sup>24</sup> evidence shows that, in following NEPA's procedural requirements, many agencies will incorporate more environmentally-friendly practices and alternatives.<sup>25</sup>

---

<sup>16</sup> 42 U.S.C. § 4342 (2012).

<sup>17</sup> NEPA Citizen's Guide, *supra* note 10, at 6.

<sup>18</sup> Council on Environmental Quality - About, The White House, <https://www.whitehouse.gov/administration/eop/ceq/about> (last visited Jan. 5, 2017).

<sup>19</sup> 42 U.S.C. § 7609 (2012).

<sup>20</sup> Lynton Keith Caldwell, *The National Environmental Policy Act* 74 (1999).

<sup>21</sup> NEPA Citizen's Guide, *supra* note 10, at 6.

<sup>22</sup> *Id.* at 14.

<sup>23</sup> Richard Lazarus, *The National Environmental Policy Act in the U.S. Supreme Court: A Reappraisal and a Peek Behind the Curtains*, 100 Geo. L.J. 1507, 15011 (2012) (courts give great deference to agency analysis under NEPA. Of the 17 NEPA cases that the Supreme Court has heard, the government has won all of them.).

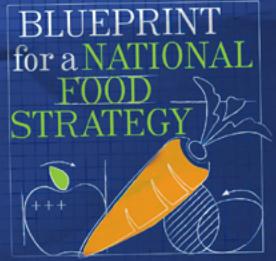
<sup>24</sup> See Linda Luther, *supra* note 1, at 1..

<sup>25</sup> See Serge Taylor, *Making Bureaucracies Think: The Environmental Impact Statement Strategy of Administrative Reform* 251 (1984) (finding that NEPA's procedures have forced agencies to confront environmental concerns, sometimes resulting in "relatively inexpensive environmental mitigation.").

# APPENDIX C: KELLOGG INTERVIEWEES

NAME	TITLE	VIDEO INTERVIEWEES
<b>José Alvarez</b>	Senior Lecturer, Harvard Business School ( <i>formerly CEO, Stop &amp; Shop/Giant-Landover</i> )	
<b>Molly Anderson</b>	Professor of Food Studies, Middlebury College	X
<b>Peter Barton Hutt</b>	Senior Counsel, Covington & Burling ( <i>formerly FDA</i> )	
<b>Claire Benjamin DiMattina</b>	Food Policy Action	
<b>Ted Brady</b>	Rural Development State Director for VT & NH, USDA	X
<b>Kate Clancy</b>	Food Systems Consultant/Visiting Scholar at the Center for a Livable Future at Johns Hopkins/Senior Fellow at the Minnesota Institute for Sustainable Agriculture	X
<b>Scott Cullen</b>	Executive Director, GRACE Communications Foundation	
<b>Olivier De Schutter</b>	Professor, University of Louvain and Sciences Po ( <i>formerly UN Special Rapporteur on the Right to Food</i> )	
<b>Hilal Elver</b>	UN Special Rapporteur on the Right to Food	
<b>Kate Fitzgerald</b>	Food Systems Consultant	
<b>Robert Greenwald</b>	Clinical Professor, Harvard Law School/Director, Center for Health Law and Policy Innovation at Harvard Law School/President's Advisory Council on HIV/AIDS	
<b>Elizabeth Henderson</b>	Agricultural Justice Project	
<b>Ferd Hoefner</b>	Founding Member and Senior Strategic Advisor, National Sustainable Agriculture Coalition	
<b>Wes Jackson</b>	Land Institue	
<b>Saru Jayaraman</b>	Restaurant Opportunities Centers United	
<b>Meghan Jeans</b>	New England Aquarium	
<b>Bill Jordan</b>	Environmental Consultant ( <i>formerly EPA</i> )	
<b>Eric Kessler</b>	Founder, Principal, and Senior Managing Director, Arabella Advisors	X
<b>Patty Lovera</b>	Assistant Director, Food and Water Watch	X
<b>Bob Martin</b>	Food System Policy Program Director, Center for a Livable Future	
<b>Danielle Nierenberg</b>	Co-founder and President, Food Tank	
<b>Erik Olson</b>	Health Program Director, National Resources Defense Council	
<b>Janelle Orsi</b>	Sustainable Economies Law Center	
<b>Anne Palmer</b>	Food Communities and Public Health Director, Center for a Livable Future	
<b>Chellie Pingree</b>	US Congresswoman from Maine	

NAME	TITLE	VIDEO INTERVIEWEES
<b>Doug Rauch</b>	<i>Founder and President, Daily Table (formerly President, Trader Joe's)</i>	
<b>Eric Rimm</b>	<i>Professor, Harvard School of Public Health</i>	
<b>Ricardo Salvador</b>	<i>Director, Food &amp; Environment Program, Union of Concerned Scientists</i>	X
<b>Gus Schumacher</b>	<i>Founding Board Chair, Wholesome Wave (formerly USDA)</i>	
<b>Elanor Starmer</b>	<i>Administrator, Agricultural Marketing Service, USDA</i>	
<b>Karen Washington</b>	<i>Community Activist, Farmer and Co-owner, Rise and Root Farms</i>	X
<b>Mark Winne</b>	<i>Food Policy Council Expert and Consultant</i>	



# THANK YOU FOR READING!

FOR MORE INFORMATION, PLEASE VISIT:

**FOODSTRATEGYBLUEPRINT.ORG**