

African, Caribbean and Pacific Group of States

**“Legal Support for Implementation of the Quality and Safety
Standards for Kava Production in Vanuatu”**

**“ACP-EU TBT PROGRAMME”
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Abbreviations and acronyms

ACP	African, Caribbean and Pacific countries
CAC	Codex Alimentarius Commission
CCNASWP	Codex Coordinating Committee for North America and South West Pacific
CoP	Code of Practice
EU	European Union
FAO	Food and Agriculture Organization
FVO	Food and Veterinary Office
IPPC	International Plant Protection Convention
LDC	Least-developed country
MALFFB	Ministry of Agriculture, Livestock, Forestry, Fisheries, and Biosecurity
MTTCI	Ministry of Trade, Tourism, Commerce and Industry
PHAMA	Pacific Horticulture Agricultural Market Access project
PIC	Pacific Island Countries
SoP	Standard Operating Procedure
SPS	Sanitary and phytosanitary
TBT	Technical barriers to trade
VCMB	Vanuatu Commodity Marketing Board
WTO	World Trade Organization

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EXECUTIVE SUMMARY

Vanuatu is an island country in the South Pacific with a weak economy where kava is one of the major cash crops and the economy could significantly be enhanced if the kava industry was enlarged. More than 200 kava plant varieties exist, however the kava beverage is prepared from either noble or two-day ('tu dei') kava. The traditional beverage should be prepared from noble kava varieties and is harmless to human health. However, two-day kava has quite a different effect and the name two-day kava is derived from the fact that it has longer lasting psychotropic effects, apparently lasts for days and is harmful to human health. However, it is far more profitable because it grows faster, bigger, is resistant to various weather conditions and contains more kava lactones making it much stronger.

The current regulatory status of kava is troublesome, an Amended Kava Act has been adopted by Parliament, however it has not been gazetted (was not in force at the time of the Report drafting – September 2016). This Act provides the Ministry of Agriculture, Livestock, Forestry, Fisheries, and Biosecurity (MALFFB) with legal basis for controlling the entire kava production process. The Vanuatu Commodity Marketing Board under the Ministry of Trade, Tourism, Commerce and Industry (MTTCI) was previously in charge of controlling the kava industry, however the VCMB Act has been repealed, but not gazetted. This leaves a very vulnerable situation where market inspectors are still competent to perform checks, but in reality the control is quite superficial.

The National Standard for Kava was promoted on August 26th, 2016 and addresses significant issues: quality, labelling and hygiene, however the enforcement is disputable because of the lack of legal instruments in force to provide legal grounds for the necessary control measures. An international standard for the kava beverage is in preparation and is awaiting the meeting of the Codex Coordinating Committee for North America and South West Pacific on September 19th, 2016 for a decision on whether the Committee will accept the proposal in order for it to be further developed as an international standard.

The project ToR aims to provide support in definition of legislative/regulatory measures and propose enforcement mechanisms for enforcing requirements of the kava standard and drafting an Action Plan for the implementing recommendations for kava production in line with good agricultural practice. The Expert conducted an approximation of the legislation covering kava production and trade in July, prior to the visit to the Republic of Vanuatu. The actual mission to Vanuatu (18-26 August 2016) provided more useful insight into the task and solid information of the current situation and obstacles that exist. The Expert met with various civil servants, representatives of foreign aid projects, farmers growing kava, processors of kava, retailers (retail shops where kava powder is sold and kava bars) and exporters. Outlines for 2 regulations, a code of practice (CoP) and standard operating procedures (SoP) have been provided in the annexes. These legal instruments would provide a solid basis for building a coherent system in the kava industry and result in a quality end product. The Expert proposes preparing a Regulation for implementing the Amended Kava Act that would cover quality, hygiene, packaging (or rather contact materials) and labelling requirements, as well as a Regulation on traceability establishing a Kava Business

Operators Register. The Regulation on traceability should be complemented with a SoP for implementing the Regulation. A CoP is needed to follow the process of growing, processing and exporting two-day kava for export to countries that specifically request this variety of kava. This CoP would be followed by a SoP to facilitate the enforcement of the transition process with detailed steps how to conduct this process. Another SoP is needed for appointing the officers as defined in the Amended Kava Act 2015 (“authorised officers”), while an additional SoP for elaborating the controls or rather the inspections the officers shall perform in the course of enforcing the Amended Kava Act would immensely contribute to consistent inspection practices. The Expert also proposes a SOP for checking export consignments at the final stage (immediately before export) before issuing the phyto certificate and officially granting export, however this procedure needs legal basis that could possibly be in the form of a Ministerial Order for tackling the two-day kava issue.

Proposed regulatory measures:

- Regulation for implementing the Amended Kava Act on quality, hygiene, packaging (or rather contact materials) and labelling requirements
- Regulation on traceability establishing the Kava Business Operators Register
- CoP to follow the process of growing, processing and exporting two-day kava for export to countries that specifically request this variety of kava
- SoP to facilitate the enforcement of the transition process
- SoP is needed for appointing the officers as defined in the Amended Kava Act 2015
- SoP for elaborating the controls or rather the inspections the officers shall perform in the course of enforcing the Amended Kava Act
- SOP for checking export consignments at the final stage (immediately before export) before issuing the phyto certificate and officially granting export

1 BACKGROUND

Brief description of beneficiary country, context and background information

Vanuatu is a Least Developed Country with a weak economy. As an island country it must import goods, thus raising the cost of livelihood and prices in general. Development is slow and international trade prospects are restricted. Further development of existing trade potential is the most favourable option for fighting poverty and improving the economic situation of Vanuatu.

Kava is a crucial and very well recognised agricultural and commodity product in the Pacific community. The kava (*piper methysticum*) plant, a member of the pepper family native to many Pacific Ocean islands is mainly produced on small farms in the South Pacific Island countries of Fiji, Palau, FSM, Vanuatu, Tonga, Solomon Islands and Samoa. Although the entire plant is often used, the most potent part of the plant are the roots. The kava beverage is served in nakamals, or rather kava bars and play a significant role in the social life of Pacific societies. The export opportunities of kava are promising and the leaders of the PICs are fully dedicated to develop and export this commodity which is unique to their geographical area.

More than 200 kava plant varieties exist, however the kava beverage is prepared from either noble or two-day ('tu dei') kava. The traditional beverage in the Pacific has been consumed recreationally for centuries is prepared from noble kava. The consequences of drinking this beverage are well known to the people of the Pacific islands, the beverage is harmless to human health. However, two-day kava has quite a different effect due to the higher content of kava lactones and alkaloids. The name of the kava is derived from the fact that it has longer lasting psychotropic effects and apparently lasts for days. Although a multitude of research has been conducted, and noble kava is considered safe, while two day kava is considered harmful to human health, there is a need for further research in order to understand the origin of both beneficial and hazardous effects of the different varieties. The main problem is that two-day kava is far more profitable for both farmers and exporters because it takes only 3 years to grow, as opposed to the noble kava varieties that can be harvested after 5 years. Two-day kava grows bigger and therefore more kava can be used from one plant, it is richer in kava lactones-making it stronger, it is more resistant to all weather conditions and when it is dried it does not lose weight, whereas the weight of noble kava decreases once it is dried. Kava producers tend to mix different varieties together, and because there is a lack of traceability, it is difficult to assess the final product – its strength, the possible consequences and whether it is noble varieties or two-day kava varieties.

Two-day kava is most probably the cause of the German ban of kava, which gave kava a bad reputation. Therefore, building up good practices related to kava production is crucial and the current situation in Vanuatu is not favourable. The Vanuatu Commodities Marketing Board (VCMB) under the Ministry of Trade, Tourism, Commerce and Industry (MTTCI) was in charge of controlling the marketing of kava because kava is a prescribed commodity. The control included a check for moisture content and a laboratory analysis of kava for quality (whether it is a noble or two-day kava variety). In reality these checks were rarely performed and the exporters could send samples to the laboratory from any consignment or repeatedly send the same sample for testing. There was no control of the origin of the sample. The VCMB Act has been repealed, however not yet gazetted (finalised) and the Act has 2 sub-laws that are still in force which serve to enforce kava related issues. On the other hand, the Kava Act from 2002 has been amended and has been adopted by Parliament, however it has not been gazetted, which means it is not in force yet. The problem is the transfer of powers for controlling kava production from the MTTCI to the MALFFB. Unfortunately, this gap opens the door for abuse and there is a high probability that a large quantity of two-day kava is leaving Vanuatu and exported overseas, thus creating the possibility of ruining the reputation of kava once again. This uncertainty of who exactly is the competent authority for kava production needs to be addressed immediately and resolved in a manner that enables stringent control of both the primary production, processing and trade of kava. The demand for kava is currently quite high and the overseas buyers are requesting quantities that cannot be met. This increases the threat of cultivating two-day kava due to the shorter time period it takes to grow and the fact that the plant is larger in size, thus providing more raw material for production.

Related Activities and International Organizations

The MALFFB and the Pacific Horticulture Agricultural Market Access (PHAMA) project promoted the National Standard for Kava on August 26th, 2016 and provides a solid basis for kava the entire process of kava production. It addresses all the significant issues, quality, labelling and hygiene, however the enforcement is disputable because of the lack of legal instruments in force to provide legal grounds for the necessary control measures. An international standard for the kava beverage is in preparation and is awaiting the meeting of the Codex Coordinating Committee for North America and South West Pacific on September 19th-23rd, 2016 for a decision on whether the Committee will accept the proposal in order to be further developed as an international standard.

The Food and Agriculture Organization (FAO) is conducting an awareness campaign for all stakeholders involved in the kava industry, namely the government, private sectors, farmers, exporters, processors, and extension officers, as well as provincial leaders, farmers and civil servants of the MALFFB on kava related issues, and the education will be continuous because a number of civil servants have been trained to be trainers to further disseminate the information to a larger audience. The Expert believes this campaign will have a significant impact on introducing and maintaining good agriculture practice. This campaign focuses on four major kava producing areas, namely Penama, Sanma, Malampa and Shefa and it involves the promotion of the 10 noble varieties and discourages the planting and sale of two-day kava. Two workshops were held last year, one in Port Vila in November and another one in Santo in December (Provincial workshop). The campaign covered the four main islands, however it has now become a nation-wide campaign, and apart from disseminating information and organising workshops, there have also been posters, six sign boards, stickers (Nakamal checklists, bumper stickers, fuel tank stickers) promoting the 10 noble varieties and the correct way of preparing kava or exports that have been distributed throughout the country.

Vanuatu is a member of the International Plant Protection Convention (IPPC) as well as a member of the World Trade Organization (WTO). As a WTO member Vanuatu must abide to the provisions set out in the Sanitary and Phytosanitary Agreement (SPS) and the Agreement on Technical Barriers to Trade (TBT). Taking into consideration the issue of improving the kava industry, Vanuatu could turn to a developed member state for assistance in resolving the current problems and establishing a comprehensive system, as provided for in both of the above-mentioned agreements. The Standard and Trade Development Facility (STDF) at the World Trade Organization (WTO) and FAO could also assist in addressing these outstanding issues.

Tasks According to the ToR

The project ToR aims to provide support in definition of legislative/regulatory measures and propose enforcement mechanisms for enforcing requirements of the kava standard and drafting an Action Plan for the implementing recommendations for kava to be produced in line with good agricultural practice. The expected results are:

1. Legislative / regulatory measures for implementation of the International Quality and Safety Standard as well as enforcement mechanisms suitable for national jurisdiction are prepared
2. Action Plan with identified steps for the implementation of the recommendations ensuring that kava is produced and processed according to good agricultural practices

The high government officials were not available for meetings, therefore the Expert only met with the DG of Trade from the MTTCI and the Director of the Biosecurity within the MALFFB. The civil servants working in the Department of Agriculture and the Department of Biosecurity provided useful information and organised a field visit to a farm where kava is grown, as well as a processing facility where fresh kava is prepared into a kava beverage, but also dried and ground into powder for export purposes. Apart from the input from the governmental side, the Expert visited other kava related facilities, such as wholesalers, kava bars and kava retail stores in order to collect information and create a balanced perspective of the situation. Based on the research and input provided from the governmental side, the Expert prepared recommendations for regulatory measures and an Action Plan for the implementation of good agriculture practices.

2 ACTIVITIES CARRIED OUT

Approximation of the legislation covering kava production and trade was conducted in July, prior to the visit to the Republic of Vanuatu. The actual mission to Vanuatu (18-26 August 2016) provided more useful insight into the task and solid information of the current situation and obstacles that exist. The Expert met with various civil servants, representatives of foreign aid projects, farmers growing kava, processors of kava, retailers (retail shops where kava powder is sold and kava bars) and exporters. On August 26th, 2016 the National Kava Standard was officially launched at an event organised by the MALFFB and the Pacific Horticulture Agricultural Market Access (PHAMA) project. This standard provides solid grounds for kava primary production, processing and trade (local market and export). Although some requirements laid down in the Standard are quite high (i.e. hygiene requirements), the level and limits need to be set stringently in order to achieve the expected results. Nevertheless, standards are voluntary and serve as a guidance for stakeholders to improve their business conduct. The Expert feels that regulations for implementing the Kava Act should not lay down such strict requirements, or at least allow for a transition period for the stakeholders to adapt to the new rules. The Government or other stakeholders (foreign aid projects, NGO sector) could contribute to this process by organising the training for all stakeholders regarding the new rules.

The beneficiaries were helpful, however due to the time constraints of the government officials the Expert did not get a chance to discuss the enforcement mechanisms and an action plan for the implementation of good agriculture practice as required in the ToR. Nevertheless, sufficient input was provided in order for the Expert to finalise the outputs of the ToR. An outline for a Regulation for implementing the Amended Kava Act that would cover quality, hygiene, packaging (or rather contact materials) and labelling requirements, as well as another Regulation on traceability establishing a Kava Business Operators Register. Currently, the Department of Agriculture is preparing a "Farmer's Profile" which will keep records of all the kava being grown in Vanuatu, a

register of all farmers growing more than 50 kava plants. Even though this is a solid basis for obtaining and keeping data on primary production of kava, this register should be broadened to cover all actors in the process of kava production and trade. The “Farmer’s Profile” does not have any legal basis in a legal act, therefore this task should be initiated in the near future and could be defined in the proposed Regulation on traceability establishing a Kava Business Operators Register that would immensely facilitate tracking kava production from the planting material to the retail or export stage.

Under the VCMB Act the VCMB, which was under the realm of the MTTCI, was the competent authority for controlling kava and should have maintained records, at least for exporters. This data could be used when preparing the Kava Business Operators Register. Due to the fact that the VCMB is in the restructuring process, the MTTCI should provide this information to the MALFFB for facilitating the process of creating a Kava Business Operators Register. Both of the regulations mentioned above need SoP to be properly enforced.

The Amendment of the Kava Act states that “authorised officers” shall enforce the Act and will be under the realm of the Departments of Agriculture and Biosecurity. The appointment of these officers is not elaborated, the Act only lays down the powers they will be equipped with “for the purposes of enforcing and ensuring compliance” with the Act. Therefore a SoP is needed for appointing the officers, as well as another SoP for elaborating the controls or rather the inspections the officers shall perform in the course of enforcing the Kava Act. A CoP is needed to follow the process of growing, processing and exporting two-day kava for export to countries that specifically request this variety of kava. This process should be closely observed due to the fact that production of two-day kava is forbidden by law, but also in order to avoid any possibility of mixing noble kava with two-day kava. Bearing in mind the fact that there is a multitude of two-day kava being cultivated (it is believed there is more two-day kava growing in Vanuatu than noble kava) currently, the Expert proposes a transition period of 3 years, strictly defined by dates, to allow the farmers to dispose of the two-day kava currently growing and transfer their farming exclusively to noble kava varieties. If the law was strictly enforced and all two-day kava was confiscated and destroyed, it could seriously hurt the economy of Vanuatu, and therefore a smooth transition should be carried out, to allow farmers to adjust. This process requires strict controls by the authorities and the CoP on two-day kava should be followed by a SoP to facilitate the enforcement of the transition process.

Outlines of 2 regulations, a CoP and a SoP are provided in the annexes. Only one outline for a SoP is in Annex 4, other SoPs can be drafted by using Annex 4 as a basis.

Regarding good agriculture practice, the Expert found that FAO conducted an awareness campaign that provided information to the farmers on the benefits of growing noble kava, and the detrimental issues regarding two-day kava which is by law prohibited, except for personal consumption and if the importing country explicitly requests this specific variety. FAO trained civil servants, such as compliance officers of the Department of Biosecurity, to be trainers, in order for them to further pass on their knowledge and educate farmers on good agriculture practice.

If the above proposed Regulation on traceability establishing a Kava Business Operators were to be drafted, traceability would be ensured. Currently, when kava is harvested, the farmers keep the

branches and use them as planting material (cuttings). Bearing in mind the current delicate situation with a high number of two-day kava being grown, the situation could possibly be remedied by providing good and consistent planting material, cuttings or seedlings to effectively control the varieties farmers grow. The issue could be tackled at the very source and further steps in the production process would consequently be improved. Good agriculture practice regarding kava includes recommendations on how:

- to harvest kava properly, to gently pull out the plant, thus not breaking the roots in order to preserve as much of the plant as possible;
- to separate the organs: roots, stump and stems, and keep them separate in the entire process in order to enable the possibility to properly label the content with “roots”, “stump” or “stems”;
- not to mix different varieties to also enable proper labelling, etc.;
- to wash the plant thoroughly, peel the stump and stems twice;
- to soak in potable water and take measures regarding good hygiene practice

3 RESULTS ACHIEVED

The expected results for providing regulatory recommendations and an Action Plan have been met and can be found in the annexes. However, discussions with the beneficiaries did not take place due to the unavailability of the high government officials who are the decision-makers, except for a brief meeting with the Director of the Department of Biosecurity who agreed that an interim measure to check all consignment leaving Vanuatu should be introduced as soon as possible.

The recommendations can only be taken into consideration by the beneficiary once the Amended Kava Act is gazetted and officially comes into force. Currently, the uncertainty of who is the competent authority for kava production, the MTTCl, who previously was in charge of enforcing the Kava Act or the MALFFB, that should take over the responsibilities for enforcing the Amended Kava Act is causing a confusion and this lack of competence is being abused by the industry, thus creating a threat to the entire export of kava from Vanuatu. Without proper control, two-day kava can be exported and cause another ban or similar problem that will affect one of the most prosperous industries in Vanuatu. Due to the fact that Vanuatu is a poor country, priority with special attention should be given to the kava industry because it is the major cash crop and one of the largest commodities of Vanuatu.

The Expert met with various stakeholders, civil servants, 2 government officials, farmers, processors, retailers, wholesalers and exporters. The conclusion from all the meetings is that more stringent control needs to be introduced for the entire process involving kava, from farm to retail or rather the point of export. Hopefully, the Amended Kava Act shall be gazetted soon and officially come into force. Preparations for enforcement should be in place as soon as possible, and implementing regulations and SoPs are needed to facilitate the process.

4 KEY FINDINGS AND RECOMMENDATIONS

Vanuatu relies immensely on kava production and it is an important commodity. Up to now there has not been any regular or systematic control of the kava production process. Farmers grow whatever variety they deem can be sold, and there is no control of the primary production stage of kava. Once they sell the kava there is no system in place for traceability to enable potential tracking back to the farmer if an incident occurs. The Department of Agriculture has started a “Farmer’s Profile” which will aim to register all farmers growing more than 50 plants of kava on their farm. This register should provide solid grounds for obtaining accurate data on the quality of kava being cultivated in Vanuatu. The Department of Agriculture has developed forms which the agriculture officers will distribute to the farmers and assist them in filling out the necessary information. This data will be kept by the Department of Agriculture and updated every two years. From this register, it would be good to develop a Register of Kava Business Operators which would include all the actors in the process. The farmers, agents or middlemen buying kava from farmers, the exporters, the wholesalers, retailers and the kava bars. Once a system is in place, it will be a simple process to control the production of kava from farm to consumption, or rather export and enable traceability. An interesting finding is also the fact that kava varieties are mixed, and sometimes noble kava is mixed with two-day kava, but also the parts or rather organs of the kava plant are all mixed together when grinding the dried plant. Therefore, people consuming kava can never know how much kava they can drink, because the roots of the plant have far more kava lactones than the upper parts, the rhizomes (stumps and stems). Drinking large quantities of kava creates skin rashes (scale skin) and other negative effects, however not knowing which part of the plant the kava beverage was made from, leaves the consumer in the dark even if the person wanted to control the intake.

The quality, or rather the distinction between noble and two-day kava varieties, needs to be put into a legal instrument that enables regular checks throughout the process of kava production, as well as random checks, and an emphasis on a final check before kava leaves the country for the export of kava. Hygiene is also a difficult issue, the National Kava Standard provides for strict hygiene requirements, in line with the Codex Alimentarius Recommended International Code of Practice - General Principles of Food Hygiene as well as stringent requirements regarding microbiological criteria in line with Codex Alimentarius Standard CAC/GL 63-2007 on the Principles and Guidelines for the Establishment and Application of Microbiological Criteria Related to Foods. Due to the fact that this is only a voluntary standard and not mandatory for kava production, it is a good basis for moving forward and improving the system. The Expert recommends drafting a Regulation on quality, hygiene, packaging (or rather contact materials) and labelling requirements that would be less stringent than the standard in order for the kava business operators to be able to comply with the mandatory provisions. The National Standard can be observed, however transition from the current situation in kava producing facilities to such strict criteria could be an ambitious task and it is not feasible.

Hygiene requirements present an obstacle that should be resolved before any export to the EU is possible. The Food and Veterinary Office (FVO) has a mandate to randomly check food establishments for potential importers from non-EU member states, in this case kava facilities. This means that if Vanuatu were to initiate the process of exporting kava to the EU, the FVO could send an inspection to Vanuatu to check kava facilities and given the current state of affairs regarding hygiene in kava facilities, the requirements would not be met. The FVO do not necessarily conduct checks for all importers' facilities from non-EU member states for food of non-animal origin, however, given the history of the German and subsequently the EU ban on import of kava, the probability of FVO checking kava facilities is quite high. In conclusion, regulations defining hygiene, labelling and traceability requirements are a prerequisite for attempting to export kava to the EU.

Hygiene during kava processing has not been an issue due to the fact that kava has specific properties that researchers have not been able to define yet, but probably the kava lactones are so strong that even the lack of hygiene during the production process does not affect the final product in terms of hygiene. The Expert visited a facility where fresh kava is brought, then cleaned (not thoroughly), peeled (should be peeled twice and the peelings should not be used for production, but sometimes they can be found) and processed. There are 2 types of processing depending on the market demand. Fresh kava is ground twice and then soaked. From this water solution kava is extracted by collecting the content and squeezed with rags (this stage is in serious need of higher hygiene requirements) and put into another container with water for preparing the kava beverage. The kava is then extracted again, leaving the kava beverage which is sold in the local kava bars. If the kava is to be ground into powder, then the first stage after cleaning and peeling, is the drying process. This usually takes a week depending on the weather conditions. Further it is ground into powder and varieties are often mixed, making it difficult to label properly. Hygiene is also an issue when preparing dry kava because the plants are not cleaned properly, leaving dirt and other particles on the plant. The plants are sometime not separated by organs and the whole plant is grinded. Also, the rhizomes are not peeled properly (for good hygiene practices, the rhizomes should be peeled twice), and sometimes the peelings are put in the grinder for preparing the powder.

The current situation regarding export, as described above, is not favourable, action needs to be taken immediately. Possibly, a Ministerial Order should be passed to restrict the export of two day-kava at the point of export. This would not be difficult due to the fact that there are only 2 points of export - Port Vila and Santo. A simple test could be conducted of all consignments being exported from Vanuatu, and without official documents proving the country of export explicitly requests to import two-day kava from Vanuatu, the consignments should be destroyed because it is an offence according to the existing Kava Act from 2002, as well as the Amended Kava Act awaiting official entry into force. Prior to the checks, the exporter would need to present proof of traceability and then checks should be conducted for each consignment to protect the potential consequences of bans and similar trade barriers. The Expert recommends that because the situation is volatile at the moment, a Ministerial Order should not allow the exporters to obtain the phytosanitary certificate before the final check is performed at the point of export. This would be a temporary measure that would decrease the possibility of exporting two-day kava from Vanuatu.

The primary focus should be on enforcing the Amended Kava Act and initiating proper controls for enforcement. Legal/regulatory instruments should be drafted and passed to provide legal grounds for implementing the Amended Kava Act that would cover quality, hygiene, packaging (or rather contact materials) and labelling requirements (a Regulation), as well as a Regulation on traceability establishing a Kava Business Operators Register that would consist of all actors included in the process, the farmers, agents, processors, wholesaler, retailers, kava bars and exporters. This Regulation would enable full traceability of kava. A CoP could be a useful tool to remedy the fact that two-day kava is still very much present in Vanuatu would follow both the primary production stage and the trade of two-day kava. This CoP would provide instructions on how to closely follow the initial stage - the planting material or seedlings, the process of growing, processing and exporting two-day kava for export to countries that specifically request this variety of kava. Also, it would define a three year transition period for facilitating the process of eliminating the presence of two-day kava on the market and in export. The regulations mentioned above need SoPs to assist the enforcement of the provisions they contain, but also 2 more SoPs are needed for inspection purposes. One SoP would cover the appointment of authorised officers defined in the amended Kava Act, whilst the other SoP would elaborate the controls or rather the inspections the officers shall perform in the course of enforcing the Kava Act.

Once procedures are drafted, the beneficiary can proceed with training the staff that will be responsible for enforcement. The stakeholders should also be informed through training sessions, workshops or similar that would be held to introduce the new system. Enforcement is a key priority and should be addressed immediately, however the crucial problem is the designation of a competent authority for kava. Although these issues need to be addressed, the preparation of the regulatory measures and training of stakeholders can be conducted simultaneously.

The Expert recommends additional support interventions through possible donors of foreign aid that include funds for further research of kava for full comprehension of the plant's properties, the proper justification of the side effects two-day kava causes and additional facts science can provide for explaining the specific plant grown in the South Pacific. Further capacity building is needed for the institutions involved in controlling the kava production process, as well as legislation that has only been outlined in the annexes of this report. These issues could potentially be covered in one large project that would include both research and capacity building of relevant institutions. This national study could be replicated to other Pacific Kava producing countries. The preparation of the proposed legislation indicated above could also be part of the project to ensure the rules are in line with international best practice and harmonised with the necessary standards. The kava industry is in need of more assistance to become a recognised commodity globally, thus once a good system for kava production, processing and trade is established, the next step would be organising promotion campaigns in targeted regions that are potentially interesting for export, as well as similar campaigns in the EU to remedy the bad reputation the German ban caused. All these activities should be supported with continuous lobbying in the relevant governmental, regional, EU, ACP, etc. institutions.

Annex 1: Outline for Regulation on quality, hygiene, packaging (or contact materials) and labelling requirements

1. Citation
2. Definitions
3. Enforcement
 - This regulation shall be enforced and executed by authorised officers in their respective areas of competence or jurisdiction or entities authorised by the competent authority (Department of Agriculture or Department of Biosecurity)
 - Authorised officers shall perform regular and random checks of kava throughout the production, processing and trade chain; mandatory check at the point of export
 - Checks will consist of taking random samples, laboratory testing and entering the data into a system for processing such data (in order to transfer to risk analysis in the future)
4. Primary Production
 - Primary producers shall follow guidelines for good practices for agricultural production
5. Quality Determination
 - must be a noble variety of kava determined laboratory analysis
 - separated organs
 - separate different varieties, no mixing
6. General Hygiene Requirements
 - for fresh kava
 - for dried kava
7. Kava handlers
 - all kava handlers are supervised and trained in kava production and hygiene principles appropriate for their work activity
 - proper personal hygiene
8. Sanitary Facilities
9. Equipment
10. Waste Management
 - disposing the peelings
 - waste and other refuse shall be removed from rooms where kava is present as quickly as possible, so as to avoid waste accumulation and be deposited in closable containers, which are easy to clean and disinfect
11. Water Supply
 - an adequate supply of potable water is used whenever necessary to ensure that kava is not

contaminated;

12. Transport

- transport of food shall be carried out to prevent any contamination of the kava, to maintain its integrity in bulk, liquid, granulate or powder form and shall be transported in food transport vehicles reserved for such purpose

13. Labelling

- name of the product (fresh kava, dried kava, kava extract)
- name of the kava species
- organ (root, stump or stem)
- quantity of Ingredients
- best before date
- instructions for use
- storage conditions or conditions of use
- origin ("Product of Vanuatu", which island)
- some mark or number to ensure the product can be traced

13. Food packaging

- ensure packaging materials shall provide adequate protection for kava to be packed to minimise contamination and prevent damage

14. Contact materials

- all surfaces that come into contact with kava: cutting knives, materials for squeezing kava from water, surfaces, containers, packaging materials, etc.

15. Notices and Fines

- operators that fail to separate the organs, mix varieties and organs

Annex 2: Outline for Regulation on traceability establishing a Kava Business Operator Register

1. Citation
2. Definitions
 - Definition of kava business operator – any person involved in the kava production, processing or distribution process
3. Enforcement
 - This regulation shall be enforced and executed by authorised officers in their respective areas of competence or jurisdiction or entities authorised by the competent authority (Department of Agriculture or Department of Biosecurity)
4. Traceability
 - Traceability of kava shall be established at all stages of production, processing and distribution
 - The planting material or seedling shall be controlled to ensure the quality of kava
 - Kava business operators shall be able to identify any person from whom they have been supplied with kava, other businesses to which their products have been supplied
 - Kava business operators shall have in place systems and procedures which allow for this information to be made available to the competent authorities on demand
5. Labelling
 - Kava products shall be adequately labelled or identified (a recognizable mark) to facilitate its traceability, through relevant documentation or information in accordance with the relevant requirements of more specific provisions
6. The Ministry of Agriculture, Livestock, Forestry, Fisheries, and Biosecurity shall establish a Kava Business Operators Register
 - maintain records on all operators (separate farmers, processors, retail, exporters, etc.)
 - maintain records on planting material
7. Prescribed forms for collecting the necessary data

Annex 3: Outline for Code of Practice to follow the process of growing, processing and exporting two-day kava for export to countries that specifically request this variety of kava

1. This Code of Practice shall be observed by all kava business operators and will serve to facilitate the work of authorised officers under the Amended Kava Act as authorised by the competent authority (Department of Agriculture or Department of Biosecurity)
2. Two-day kava is forbidden by the Kava Act, therefore it can only be cultivated for personal use or for export from Vanuatu if the person has been requested to do so by a person outside of Vanuatu and the proposed export complies with the Biosecurity requirements under the Plant protection Act [CAP 239], under the following specific procedures:
 - Procedures for following farms where two-day kava is grown
 - Procedures for agents or middlemen that purchase two-day kava
 - Procedures for processors that process two-day kava
 - Procedures for wholesalers that sell two-day kava
3. Procedures for exporters that export two-day kava
4. Forms and paperwork regarding the production of two-day kava
5. Transition period
 - Define a three year transition period for facilitating the process of eliminating the presence of two-day kava on the market and in export

Annex 4: Outline for a Standard Operating Procedure for appointing authorised officers in line with the Amended Kava Act, 2015

SOP 1	Appointment of Authorised Officers under the Amended Kava Act 2015	Version: 1	Issue Date: 15/11/2016
1	PURPOSE To define the procedure for the appointment of an authorised officer under Section 1C of the Amended Kava Act 2015		
2	SCOPE All authorised officers appointed by the Ministry of Agriculture, Livestock, Forestry, Fisheries, and Biosecurity		
3	RESPONSIBILITY		
4	DEFINITIONS Authorised officers are		
5	RELATED DOCUMENTS Regulation on quality, hygiene, labelling and packaging kava Regulation on traceability...		
6	PROCEDURE		
6.1	Where an authorised officer requires authorisation under the Amended Kava Act 2015, the relevant Head of the Department must request this in writing to the Minister		
6.2	The warrant of appointment of a an authorised officer will then be prepared		
6.3	The warrant is then signed and sealed by the		
6.4	The Warrant will then be laminated and given to the newly authorised officer and a		

	copy of the warrant and the original are kept in MALFFB
6.5	Further procedures
6.6	Where a person appointed as an authorised officer ceases to be an authorised officer....
6.7	Final procedures

Annex 5: Action plan for good agriculture practice

INTRODUCTION

This Action Plan serves to provide a framework of activities for introducing good agriculture practice for kava production in Vanuatu.

OBJECTIVES AND RESPONSIBILITIES

Increased productivity, improvement of natural resources use and the generation of higher farmer income. Responsibilities for implementing a GAP approach reside with the demand dimension (consumers, retailers, etc.), the supply dimension (farmers, workers, etc.) and those institutions and support services (extension, capacity building, and research, etc.) that connect supply and demand. Establish a control program for monitoring good agriculture practice for producing kava.

OPERATIONAL ACTION PLAN

1. Gazette the amended Kava Act 2015 and ensure full enforcement (1st quarter)
 - where financial penalties are used in relation to intentional violations of the Kava Act, they are at a level which is sufficiently dissuasive and higher than the economic gain expected from the violation;
 - MALFFB includes in their control plans and performs regularly mandatory unannounced controls (including inspections and testing) directed at combating the production and retail/export of two-day;
2. Establish a control program that will follow the process of kava production that will be maintained by the MALFFB (2nd quarter)
3. Adopt complimentary legislation, including regulations on quality, hygiene, labelling and packaging, as well as a regulation on traceability (2nd quarter)
4. Establish the “Farmer’s Profile” and initiate the establishment of a Kava Business Operators Register for ensuring full traceability ((2nd and 3rd quarter)
5. Introduce a system for controlling the planting material, seedlings, etc., possibly initiate creating nurseries (3rd quarter)
6. Determine a 3 year period for eliminating the cultivation of two-day kava (a specific plan should be prepared for this transition period). Some sort of incentives for motivating farmers to transfer to two-day kava could improve the situation. (2nd quarter)
7. Pass a Code of Practice for eliminating two-day kava; precisely identify locations of all two-day kava plants being grown on farms through the Farmer’s Profile; closely follow the

cultivation of two-day kava and check if farmers have agreements with exporters sending the product to countries specifically requesting two-day kava (2nd quarter)

8. Prepare standard operating procedures (SoPs) for conducting inspections, for checking export consignments as a final stage before issuing the phyto certificate and granting export, for a Kava Business Operators Register and following two-day kava production (2nd quarter)
9. Conduct continuous country-wide awareness campaigns for farmers growing kava on the benefits of good agriculture practice and disseminate information (continuous)
10. Follow the conduct of processors in regards to hygiene requirements by preparing checklists for the process, i.e.: (3rd quarter)
 - separating different varieties
 - properly washing the plants
 - separating the organs
 - peeling the rhizomes twice
 - soaking in potable water
 - using clean and durable materials to rinse the kava from the liquid
11. Follow the conduct of processors in regards to labelling requirements by preparing checklists for the process, i.e.: (3rd quarter)
 - Properly label the variety, organ, origin and content
12. Conduct training of all stakeholders on GAP (particularly in the identification and selection of proper planting material) and new legal requirements, translate relevant material into Bislama (continuous)
13. Organise kava organisations such as cooperatives (4th quarter)
14. Encourage kava farming as a business, not a means of last resort (continuous)