

Centre for Food Safety
Food and Environmental Hygiene Department
Notes of the Thirty-fourth Meeting of the Trade Consultation Forum
held on 25 April 2012 at 2:30 p.m.
in Conference Room at Room 102, 1/F, New Wan Chai Market,
258 Queen's Road East, Wan Chai, Hong Kong

Present

Government Representatives

Dr. Y. Y. HO	Consultant (Community Medicine) (Risk Assessment & Communication)	(Chairman)
Dr. Teresa CHOI	Principal Medical Officer (Risk Assessment & Communication)	
Dr. Allen CHAN	Senior Medical Officer (Risk Assessment)	
Dr. XIAO Ying	Food Safety Officer (Risk Assessment)1	
Mr. CHENG Wai Kit	Superintendent (Food Surveillance)2	
Mr. WONG Sek Ki	Superintendent (Import/Export)1	
Dr. Violette LIN	Scientific Officer (Nutrition)	
Ms. Melissa LIU	Scientific Officer (Nutrition Labelling)	
Mr. HO Kwok Wai	Scientific Officer (Programme Planning)2	
Ms. Melva CHEN	Scientific Officer (Total Diet Study)	
Dr. John LUM	Scientific Officer (Veterinary Drug)	
Mr. CHIU Cheuk Ling	Chief Health Inspector (Food Labelling)	
Ms. CHUNG Sau Wai	Superintendent (Risk Communication)	(Secretary)

Trade Representatives

Mr. CHAN Wai Yip	Abbott Laboratories Ltd.
Mr. WONG Ka Chai	Abbott Laboratories Ltd.
Ms. Sally Hasler	Australian Consulate General
Mr. TSANG Wah Him	Calbee Four Seas Co. Ltd.
Mr. WONG Kai Man	Calbee Four Seas Co. Ltd.
Ms. Ming CHEUNG	Campbell Soup Asia Ltd.
Ms. Grace LAU	China Dragon Inspection & Certification (H.K.) Ltd.
Mr. Nam TO	China Dragon Inspection & Certification (H.K.) Ltd.

Mr. Dennis CHAN	City Super Limited
Ms. Grace YEE	City Super Limited
Mr. CHEUK Wai Keung	CMA Industrial Development Foundation Limited
Ms. May KAN	Coca-Cola China Ltd.
Ms. Vichou Katerina	Consulate General of Greece
Ms. Marina NG	Consulate General of the Netherlands
Ms. Yaddy AU	Danone Baby Nutrition (HK) Limited
Mr. CHEUNG Chun Kit	DCH Food Mart
Ms. Emily CHOW	Fairwood Holdings Limited
Mr. Freddy FONG	Foodscan Analytics Ltd.
Ms. Easter YUEN	Friesland Campina (Hong Kong) Ltd.
Ms. Laureen LEUNG	Friesland Campina (Hong Kong) Ltd.
Ms. Fiona LEUNG	GlaxoSmithkline Ltd.
Ms. Sally LEUNG	Godiva Chocolatier (Asia) Ltd.
Ms. Ada WONG	Herbalife Asia Pacific Service Ltd.
Mr. Allen PANG	Home of Swallows Ltd.
Mr. Timothy WONG	Hong Kong Chinese Medicine Industry Association
Mr. Allen WONG	Hong Kong Food Science and Technology Association
Mr. Peter Johnston	Hong Kong Retail Management Association
Ms. May LO	Hong Kong Retail Management Association
Ms. Frenda WONG	Hong Kong Suppliers Association Ltd.
Mr. Takuro Mori	Hong Kong Yakult Co., Ltd.
Ms. Corine LIU	Hong Kong Yakult Co., Ltd.
Mr. LEUNG Yiu Hung	Hong Kong Yamazaki Baking Co. Ltd.
Ms. Maria LAI	International Food Safety Testing Centre Limited
Ms. Athena LEUNG	Kjeldsen & Co., (Hong Kong) Ltd.
Ms. Ida CHAN	Kjeldsen & Co., (Hong Kong) Ltd.
Mr. Jack TSE	Kofco Enterprise (Asia) Co., Ltd.
Ms. CHOY Lai Ching	LAM Soon (HK) Ltd.
Ms. Alice WONG	Lee Kam Kee International Holdings Ltd.
Mr. WONG Hon Kei	Malaysia External Trade Development Corporation
Mr. Elvis NG	Marks and Spencer
Ms. Kennie SIU	McDonald's Corp. - Apmea QA
Mr. Eden HUANG	McDonald's Corp. - Apmea QA
Ms. Eva POON	McDonald's Restaurants (HK) Ltd.
Ms. Regina TAM	Mead Johnson Nutrition (Hong Kong) Ltd.
Ms. Amy XU	Mead Johnson Nutrition (Hong Kong) Ltd.
Mr. WONG Pui Sum	Natural Alliance Co., Ltd.

Mr. Joseph MA	Nestle Hong Kong Ltd.
Ms. Eleanor CHAN	Nestle Hong Kong Ltd.
Mr. Peter KWOK	Nine to Five Limited
Ms. Agnes WONG	Nine to Five Limited
Ms. German Cheung	Pappagallo Pacific Limited
Ms. Cactus LAI	Parknshop
Ms. Catherine KONG	Parknshop
Ms. TAM Sau Man	Pat Chun International Ltd.
Ms. Veronica SZE	Pfizer Corporation Hong King Limited
Ms. Maggie LEE	Procter & Gamble Hong Kong Ltd.
Mr. Jeffrey BAI	Red Bull Asia FZE
Ms. Stephanie SHUM	Saint Honore Cake Shop Ltd.
Ms. Caroline HO	Starbucks Coffee Concepts HK
Mr. WONG Kam Chuen	Swire Coca-Cola HK Ltd.
Mr. Victor KOK	Tai Pan Bread & Cake Co., Ltd.
Ms. Ming Lai CHEUNG	The American Chamber of Commerce in Hong Kong
Ms. Christy CHEUNG	The Dairy Farm Company Ltd
Mr. Samuel CHAN	The Garden Co., Ltd.
Ms. Tess WONG	The Garden Co., Ltd.
Mr. Douglas CHENG	The Garden Co., Ltd.
Ms. AU Wing Sum	The Mira HK
Ms. Abby WONG	Tingyi-Asahi Beverages Holding Co., Ltd.
Ms. Caroline YUEN	U. S. Consulate General Hong Kong
Ms. Wing CHEUNG	Unilever Hong Kong Ltd.
Mr. Attlee LAU	URC Hong Kong Co. Ltd.
Mr. CHOW Pun Him	Vita Green Health Products Co., Ltd.
Mr. Timothy TAM	Vita Green Pharmaceutical (HK) Ltd.
Mr. Anthony WONG	Viva-italia international & Wine Cellar
Ms. Susanna CHING	Viva-italia international & Wine Cellar
Ms. Wendy CHAN	Wellcome Company Ltd.
Ms. Josephine CHOW	香港中成藥商會有限公司 (No English Name)

In Attendance

Ms. Victoria TSE	Assistant Secretary for Food & Health (Food) 6/Food and Health Bureau
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Opening Remarks

The Chairman welcomed all trade representatives to the meeting and introduced government representatives.

Confirmation of the Notes of Last Meeting

2. The notes of last meeting were uploaded to Centre for Food Safety (CFS) website before the meeting. The Chairman invited trade representatives to propose amendments to the notes of meeting before they would be confirmed.

Agenda Item 1

Progress of Small Volume Exemption Application

3. Mr. CHIU Cheuk Ling reported that, during the period of 1 January 2012 to 30 March 2012, 1,500 applications for Small Volume Exemption (SVE) were received. Among these applications, 1,356 had been approved and 11 rejected. There were 51 applications withdrawn and 82 applications pending processing. As at 30 March 2012, there were 20,266 SVE products for sale in the market.

Agenda Item 2

Report on Polybrominated Diphenyl Ethers

4. Ms. Melva CHEN briefed the meeting on the first Hong Kong Total Diet Study (TDS) Report No. 3 on Polybrominated Diphenyl Ethers (PBDEs). TDS had been recognised internationally as the most cost effective way to estimate the dietary exposure of various

populations to a range of chemicals or nutrients and was the scientific basis for assessing food safety risks and regulating food supply. TDS differed from Food Surveillance Programme in that the former involved food sampling and preparation, laboratory analysis, dietary exposure estimation, etc. and focused on the exposure to a range of substances in the whole diet whereas the latter on chemical levels in individual foods. Besides, TDS prepared foods as table-ready form, took into consideration the impact of cooking and assessed dietary exposure to substances actually ingested by the population, instead of the concentrations of substances in food.

5. Ms. Melva CHEN introduced that the objectives of the first TDS were to estimate dietary exposures of the Hong Kong population and various population subgroups to a range of substances, including contaminants and nutrients, and assess any associated health risks. Three reports had been published: first one on Dioxins and dioxin-like Polychlorinated Biphenyls, second one on Inorganic Arsenic and third one on PBDEs. It was the third report covered in this meeting. She explained that the widespread and persistence of the substances in the environment had prompted the study of PBDEs. These substances were found increasing in human bodies, which were potentially toxic to humans, with potential impact on human health and environment. Therefore attention of international health authorities on these substances was increasing. In light of a research in Baptist University, which found that fish sold in Hong Kong contained high levels of PBDEs, there was some concern over the exposure of the local population to PBDEs.

6. Ms. Melva CHEN advised the meeting on the nature, sources and characteristics of PBDEs and how these substances came to human exposure. She also advised on the adverse effects of PBDEs on human growth and physiological development. However, it was not yet conclusive of their adverse effects on human, which traced back to 2005 when

the Joint Food and Agriculture Organization (FAO)/World Health Organization (WHO) Expert Committee on Food Additives (JECFA) pointed out the available data on PBDEs were not adequate to allocate a safety reference value. Experiment for the more toxic PBDE congeners suggested that adverse effects would be unlikely to occur in rodents at dose smaller than 100 µg/kg bw/day. With JECFA estimating that dietary intake of PBDEs was a low level at around 4 ng/kg bw/day internationally and the Margin of Exposure (MOE) was a high one at 25,000, the health concern was low according to the principle that the higher the MOE, the lower the health concern.

7. Ms. Melva CHEN briefed the meeting in details of the study, its limitations and the findings. Findings in the study revealed that the highest PBDEs were found from a sample of salted egg, which could not be compared with any internationally available data due to salted egg was purely a traditional Chinese food, whereas the second and the third highest samples of vegetable oil and yellow croaker respectively were comparable to international data. On the dietary exposure to PBDEs, it was concluded that the average consumers in Hong Kong were exposed to 1.34 ng/kg bw/day whereas high consumers to 2.90 ng/kg bw/day. Both the levels of average and high exposures in Hong Kong were found to be medium and were lower than those of similar international exposures estimated by JECFA in 2005. In light that a high MOE deduced that health concern was low, it was concluded that the dietary exposure of the Hong Kong population was unlikely to become a significant health concern.

8. Ms. Melva CHEN advised that, despite of the low health concern, trade should try to reduce the amount of fat in food products, obtain food supplies from reliable sources, maintain proper records to enable source tracing when required. She advised that, at the same time, the public should maintain a balanced diet so as to avoid excessive exposure to

chemical contaminants from a small range of food items, consume low-fat products, trim fat from meat and meat products and prepare food with less amount of fats and oils.

9. The Chairman pointed out that the briefing in the meeting about the TDS third report was different from previous similar briefings in a way that photocopies of the report were tabled for reference of trade representatives at the meeting. The reasons being that press release to announce the study report would be issued during the meeting. He also pointed out that several more reports were forthcoming and the whole first TDS would be completed in 2014.

10. Trade representatives sought advice on whether the data on dietary exposures of average and high consumers might have been wrongly estimated in light of the under-estimation on daily intake and whether it was a proper response for traders to reply public enquiries concerning PBDEs that the advice of Government would be observed. Ms. Melva CHEN advised that the assessment value had taken into account of MOE. When the MOE was high and the dietary exposure was far below the value that was considered by JECFA as likely to cause adverse effects on animals, it was conclusive that the effect on human body was minimal even if there was under-estimation of the situation. The Chairman advised that the proposed reply for traders to answer public enquiries concerning PBDEs by saying that the advice of Government would be observed was a reasonable response but it might not be applicable in other situations, for instance, advice from Government might not be available for every situation.

Agenda Item 3

Draft Trade Guidelines for Reducing Sugars/Fats in Foods

11. Dr. Violette LIN briefed the meeting on the Trade Guidelines for Reducing Sugars/Fats in Foods, the draft of which was prepared by a working group formed to discuss the reduction of sugars and fats. The trade guidelines were intended for reference of all traders manufacturing and selling foods and aimed at helping traders to produce and promote healthy and safe products with lower sugars and fats content. She introduced to the meeting the content of the draft trade guidelines, which were tabled at the meeting. The consultation on the draft had started since 23 April 2012 through CFS website and would last until 24 May 2012. Traders were welcomed to offer their views on the draft. The final version of the trade guidelines would be further discussed with the working group and would be released within 2012.

12. A trade representative pointed out that the intake of free sugars should be less than 10% of the daily energy intake as suggested by WHO and FAO was to reduce the decay of teeth, not to prevent chronic diseases. Besides, the suggestion was not an official policy or recommendation of WHO. She pointed out that there was not yet any international scientific agreement on a cause and effect relationship of intake level of sugars and chronic diseases or it was considered hazardous to health to intake sugars. Besides, there was no tolerance limit or upper reference value for sugars determined by European Union (EU). In Hong Kong, there was no Nutrient Reference Value set for sugars under the Nutrition Labelling (NL) Scheme. The trade representative wished that CFS would take into consideration of the situations and base on scientific research when finally setting the 10% level in the trade guidelines.

13. Dr. Violette LIN advised that the 10% level was mentioned in the trade guidelines after taking reference to different situations of many countries. Although some countries did not provide the limit of intake level of sugars, many did observe the advice of WHO. In fact,

WHO did indicate in its report that the intake of excessive sugars, such as from sugars-sweetened soft drinks and fruit juices, was a probable cause of obesity thus a risk factor of diabetes and cardiovascular diseases. It was understood that the daily intake of sugars varied among different people and the need of energy would depend on gender, age and activity of individuals. More information in this respect would be provided in the trade guidelines. Dr. XIAO Ying supplemented that obesity was a major co-related factor to chronic diseases. To prevent chronic diseases, the intake of energy should be maintained at a balanced level. From this point of view, the intake of sugars and fat should be reduced.

[Post-meeting Note: Limiting free sugars to less than 10% daily energy intake was recommended in the WHO Technical Report Series 916: Diet, Nutrition and the Prevention of Chronic Diseases formally launched in 2003 by WHO and FAO Director Generals.¹ In the Global Strategy on Diet, Physical Activity and Health, WHO urges the Member States to consider limiting the intake of free sugars as one of the recommendations when preparing national policies and dietary guidelines.² In 2007, WHO/FAO held another expert consultation on Carbohydrates in Human Nutrition, and the outcomes of the Scientific Update support the population nutrient intake goals on free sugars, i.e. <10% of total energy.³ Various types of study indicate that reduction of consumption of sugar-sweetened beverages is beneficial for weight management.⁴ Whilst some organisations/ authorities adopt the recommendation in health policy/ advocacy (e.g. World Cancer Research Fund International⁵), others include it in the dietary guidelines (e.g. UK National Health Services⁶, Singapore Health Promotion Board⁷) or as a criterion for benchmarking nutrient profile for labelling purposes (e.g. EU)⁸.]

14. The Chairman advised that views on the draft trade guidelines were welcomed before

¹ http://www.who.int/nutrition/publications/obesity/WHO_TRS_916/zh/index.html

² <http://www.who.int/publications/list/924159222/zh/>

³ <http://www.nature.com/ejcn/journal/v61/n1s/full/1602943a.html>

⁴ <http://www.nature.com/ejcn/journal/v61/n1s/full/1602939a.html>

⁵ http://www.wcrf.org/cancer_research/policy_advocacy/un_summit.php

⁶ <http://www.nhs.uk/chq/pages/1139.aspx?categoryid=51&subcategoryid=167>

⁷ <http://www.hpb.gov.sg/foodforhealth/article.aspx?id=2758>

⁸ <http://www.efsa.europa.eu/fr/scdocs/doc/644.pdf>

they were finalised. He anticipated the final version of Trade Guidelines for Reducing Sugars/Fats in Foods and those on the reduction of sodium would be published later that year.

Agenda Item 4

Draft Trade Guidelines on Preparation of Legible Food Label

15. Ms. Melissa LIU briefed the meeting on the latest version of Trade Guidelines on Preparation of Legible Food Label. She recapped the three elements for legible food label published in the first draft issued in December 2011 as follows:

- a) Suitable Font Size – Type size of 8 point (~2.8 mm in height) or above was considered easily readable and type size of 5 point (~1.8 mm in height) was acceptable when it was not practical to use larger font size;
- b) Good Contrast – To use all black or single dark colour type, printed on white or a single light colour contrasting background, whenever practical, and vice versa was also acceptable as long as words are clearly shown; and
- c) Enough Spacing – Words should be clearly displayed in such a way that words and characters should never touch each other or the lines/borders surrounding/separating them.

16. Ms. Melissa LIU advised that the draft trade guidelines were discussed in 31st and 32nd meetings of Trade Consultation Forum (TCF) held on 9 December 2011 and 23 February 2012 respectively and in 14th and 15th meetings of Working Group on NL held on 6 December 2011 and 17 April 2012 respectively. Specific views had been received since the draft was placed on CFS website for consultation and there were also views received after 31 January 2012, the deadline set for views on the draft. Besides, representatives of consumers

and Consumer Council (CC) had been consulted for their views and suggestions on the legibility of food label and the trade guidelines. CC's views might be found from an article published in February 2012 Issue of "Choice" on the legibility of nutrition label in local food products. Taking into account of views received, it was considered that there was a need to revise the draft. In revising the draft, the principle of ensuring the legibility of information on label would be upheld. Besides, it was worthy to make reference to overseas practice and experience, and was desirable to take into consideration of views from trade and consumers.

17. Ms. Melissa LIU summed up that revisions considered for the latest version of trade guidelines were as follows:

- a) Measurement Unit for Font Size – To set the minimum font size for English and Chinese characters in measurement unit of millimetre (mm) at x-height for English and total height for Chinese to tally with overseas practice, to avoid confusion, and to respond to views and demands of consumers. In general, it was recommended a font size of at least 1.2 mm x-height for English letter and a comparable one for Chinese characters;
- b) Minimum Font Size under Certain Situations – To set a minimum font size for English letters at a minimum 0.8 mm x-height and Chinese characters at a minimum 1.8 mm total height under situations when large font size might not be practically feasible for some products, such as total package surface area smaller than 400 cm², presentation of information required by international standards / guidelines in addition to those required by Hong Kong Laws, provision of detailed nutrition information and instruction for consumer use on infant formula and related food products, presentation of information in more than one language,

provision with limited spacing on imported product for affixing label with large font size, etc. She pointed out that the minimum font size of 0.8 mm for English letters had taken reference of the minimum font size for small packing in Canada, where a bilingual label was required, and it was the smallest requirement among EU, United States of America (USA), Canada and Australia and a minimum 1.8 mm total height for Chinese characters was the smallest requirement among the Mainland and Taiwan; and

- c) Additional Recommendation for “Good contrast” – To provide the food label area with a non-transparent contrasting background for products packed in transparent containers so that the clarity of the label would not be affected by the colour or appearance of the food.

18. Ms. Melissa LIU advised that views on the revisions were welcomed. She informed that the final version of the trade guidelines would be discussed at the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene (FSEH) in May 2012 and the trade guidelines were expected to be finalised in the same month.

19. The Chairman advised that the latest version of the trade guidelines was different from the original one. This version had taken reference of views of CC and members of Consumer Liaison Group. In this latest version, there were substantial changes with a higher threshold from the original one that was circulated to trade for consultation. One of the changes was the requirement of a larger font size for package surface area larger than 400 cm²; failure to do so might not meet public expectation. Another change was the addition of recommendation for transparent package.

20. A trade representative pointed out that the font size of at least 1.2 mm x-height was

considered a higher requirement than that in the original draft and drew to the meeting the various problems that would be encountered by trade in observing the requirement of a larger font size. First of all, it would require revisions of packages. Secondly, the trade guidelines would become a super passageway to legislation on legibility. Moreover, large font size was not necessarily legible. The trade representative sought advice on whether the trade guidelines on legibility would only be taken as a target instead of for implementation across the board and whether they would be subject to review after implementation. It was noted that problems arise mainly from packages where the font size was smaller than 1.2 mm x-height but the food label was legible yet the total package surface area was not smaller than 400 cm². These packages would then require revisions in order to observe the guidelines.

21. The Chairman advised that the trade guidelines would serve as a guide to the trade. They would certainly be taken as reference by the public in measuring the performance of trade but the minimum font size of 0.8 mm x-height would be taken as the reference for law enforcement. In other words, font size exceeding 0.8 mm satisfied the requirement for law enforcement purpose. If the font size fell below 0.8 mm, the legibility of the food label would be examined as well. Meanwhile, it was difficult to project the response of the public when package with a total surface area larger than 400 cm² but the font size was below 1.2 mm whilst the food label was legible. Trade should as far as possible observe the trade guidelines. It was understandable that there were situations rendered it not practicable for trade to observe the trade guidelines. He welcomed trade to propose specific situations that would not be practically feasible for adopting the large font size of 1.2 mm so that these situations might be included into the final version of the trade guidelines.

22. A trade representative sought advice on the information of food label that was covered

by the trade guidelines. Ms. Melissa LIU advised that the trade guidelines applied to all essential information of food label, inclusive of nutrition label, list of ingredients, expiry date, etc. The Chairman advised that, for law enforcement, the trade guidelines focused on the information that was mandatorily required by law and trade should observe these requirements. Information that was not mandatory requirements but was provided by trade with a view to informing consumers of additional information on the product should still be legible. If additional information was not legible, it would serve no meaningful purpose.

23. Trade representatives sought advice on whether numerical signs came under the coverage of the trade guidelines, whether contractible membrane on plastic bottle of abnormal shape might be included as one of the practicably infeasible situations for the larger font size, whether there was exemption from observing the trade guidelines and whether it was acceptable for “Expiry Date” imprinted on bottle lid not of good contrast. Ms. Melissa LIU advised that numerical signs should be provided in comparable size as words. The Chairman noted that problems with contractible membrane on plastic bottle and suggested more information should be provided in this respect for describing the situation in the trade guidelines. There was no exemption clause in the trade guidelines but situations not practicably feasible to provide larger font size were considered difficult ones and would be so described in the guidelines to remove doubts. For the purpose of observing the trade guidelines, “Expiry Date” imprinted on background not of a good contrast was not recommended.

24. A trade representative sought advice on whether it was an offence and the penalty for not observing the trade guidelines and whether it was permissible to use only one single language, except for “Best before” date or “Use by” date and what information must be provided in both Chinese and English. Mr. CHENG Wai Kit advised that the trade

guidelines were purely a set of guidelines for reference. Law enforcement would base on requirements stipulated in law. At the moment, the law did not stipulate the font size but only the need of legibility for food label. Upon receipt of complaints against the legibility of food label, investigation would be conducted on each and every case. Food label with the font size recommended in the trade guidelines would be regarded as legible. He also advised that the marking or labelling of prepackaged food should be in either the English or the Chinese language or in both languages, except for durability indication which must be provided in both Chinese and English. The Chairman supplemented that there was no legal power with the trade guidelines for law enforcement. However, the public and LegCo councillors would look upon the effectiveness of implementing the trade guidelines with a view to assessing the performance of trade and the need of legislation on the issue. Therefore, observing the trade guidelines is in the interests of the trade. He advised that, except for some items that must be provided in both Chinese and English, information might be provided in either Chinese or English. However, if there was other information provided in another language, all main information that was provided in a single language must also be provided in the other language as other information. Mr. CHIU Cheuk Ling supplemented that it was a mandatory requirement by law to provide the “Use by” date or “best before” date in Chinese and English. For other information on food and nutrition labels, it might be provided in a single language of either Chinese or English. When any information on either product name or ingredient list or NL was provided in both Chinese and English, all essential information must then be provided in these two languages.

Agenda Item 5

Market Survey on the Number of Prepackaged Food Products and their Compliance Rate to the Mandatory Labelling Requirements

25. Ms. Melissa LIU briefed the meeting on the result of market survey on the number of prepackaged food products (PFPs) and their situations under the NL Scheme. The market survey was conducted by a consultant. It aimed at finding out the quantity of different types of PFPs available in various retail outlets before and after the commencement of the NL Scheme on 1 July 2010 and assessing the change in supply of food. It also aimed at assessing the quantity of PFPs that complied with the NL Scheme before 1 July 2010 to understand the progress of trade in complying with the scheme. There were altogether three surveys, two before and one after the commencement of the NL regulation on 1 July 2010: 1st from September 2009 to January 2010, 2nd from March to April 2010 and 3rd from March to May 2011.

26. Ms. Melissa LIU said that the market survey covered local supermarkets selected from popular supermarket, high-end supermarket and Japanese supermarket, specialty shops including those selling health food, organic products and snacks, and ethnic shops selling Filipino, Indian, Indonesian, Thai, Nepalese and Pakistani ethnic food products. A total of 19 shops were selected for enumeration. In the 1st survey, on-site survey of full procedure of photo taking inside the shops was conducted in 14 shops only whereas the remaining five shops provided their product list for analysis instead of allowing the on-site survey. In the 2nd survey, a simplified approach was adopted where 13 shops, which were representative for their respective retail groups, were selected for on-site survey. Among these 13 shops, on-site photo was taken only in one shop. For the remaining 12 shops, on-site counting for the total number of PFPs was conducted. When it came to the 3rd survey, the same 19 shops in the 1st survey were enumerated. Among them, 18 shops were conducted on-site survey with photo taking while one shop provided its product list, instead of allowing the on-site survey, for analysis.

27. Ms. Melissa LIU presented to the meeting in details findings of the market survey and its conclusions. Overall speaking, the total numbers of PFPs in the market, whether they included or excluded non-covered and exempted items, were similar before and after the commencement of the NL scheme, with signs of a slight increase after commencement. It was concluded that the NL Scheme did not pose any impact on the food choice in the market as a whole. She continued that, for supermarkets, there was no obvious change after the implementation of NL regulation to the total number of PFPs. For specialty shops, the total number of PFPs was found to have increased after the commencement of the NL Scheme. In respect of ethnic shops, there was a decrease in the total number of PFPs after the commencement of the NL Scheme. Although the findings varied among different types of shops, it was concluded that there was no impact with the NL Scheme on the food choice in general. Regarding SVE products, the 3rd survey found that about 16% of all products in the market accounted for such products. There was the highest number of SVE products in supermarkets, to be followed by specialty shops, with the lowest in ethnic shops.

28. Noting that there were no views at the meeting on the briefing, the Chairman advised that the market survey would be reported to the LegCo in May 2012.

Agenda Item 6

Survey for Assessment on Impact of Nutrition Labelling Scheme on New-to-Market

Prepackaged Food Products in Food Expo 2010 and Food Expo 2011

29. Dr. Allen CHAN briefed the meeting on the survey for assessment on impact of the NL Scheme on new-to-market PFPs in the Food Expos 2010 and 2011. The survey in the two Food Expos was conducted by independent consultants. The objectives of the survey were to assess the impact brought by the NL Scheme on the introduction of new-to-market PFPs

through the Food Expo. All exhibitors who sold or promoted PFPs in the Food Expos were eligible as respondents. The data were collected through self-administered questionnaires delivered by enumerators to participating exhibitors.

30. Dr. Allen CHAN presented to the meeting in details findings of the survey and their conclusions. It was concluded that, firstly, the Food Expo remained a popular venue or activity for traders to introduce new-to-market PFPs in Hong Kong market. Secondly, the impact of the NL Scheme on the new-to-market PFPs appeared minor as only 2.7% of enumerated exhibitors who sold or promoted a smaller number of new-to-market PFPs in Food Expo 2011 mentioned about reasons related to NL Scheme for causing the decrease in PFPs. Besides, it was found that there was a reduction in 2011 for new-to-market PFPs requiring the modification of food labels to comply with the NL Scheme or SVE. Fourthly, it was noticed that non-Hong Kong base traders accounted for a larger proportion of the expenses incurred from applying for SVE. Lastly, in 2011, fewer respondents reported that the SVE-related expenses accounted for 10% or less of their total expenditure for joining the Food Expo.

31. Noting that there were no views at the meeting on the briefing, the Chairman advised that the survey would be reported to the LegCo in May 2012.

Agenda Item 6

Regulatory Framework for Pesticide Residues in Food in Hong Kong - Progress Update

32. Dr. John LUM updated the meeting on the progress of the refined regulatory framework for pesticide residues in food in Hong Kong. In the discussion at the LegCo Panel on FSEH in July 2011, there was general support from members of the panel to the refined regulatory

framework. Thereafter, there was public consultation on the framework lasting two months from July to September 2011 and a consultation document was published for the public consultation. In the public consultation, a total of 27 submissions were received from individuals and organisations, mostly trade associations and Consulates General. Views were also received through various other channels, which included LegCo Panel on FSEH, the Retail Task Force under the Business Facilitation Advisory Committee, the Federation of Vegetable Marketing Co-operatives Societies Ltd., regular Trade Consultation Forum organised by CFS, technical meetings with food trade, etc.

33. Dr. John LUM continued that views received during public consultation were generally in support of the regulatory framework. The majority of views received mainly commented on specific pesticide residue limits in the Preliminary List of Maximum Residue Limits (MRLs) and Extraneous Maximum Residue Limits (EMRLs). Others sought clarification on the operational details of the framework. A summary of opinions and written submissions was available on the Food and Health Bureau and CFS websites for reference. There was a set of Frequently Asked Questions on CFS website as a response to these views.

34. Dr. John LUM explained that there were seven key features of the refined regulatory framework as follows:

- a) To define “pesticide” and other related terms in a way consistent with Codex Alimentarius Commission (Codex);
- b) To provide a list of MRLs/EMRLs, to adopt MRLs/EMRLs recommended by Codex as the backbone as well as the Codex’s classification of foods;
- c) To only allow the import and sale of food with pesticide residues for which no MRL/EMRL had been specified if consumption of the food concerned would not

be dangerous or prejudicial to health;

- d) To provide a list of exempted pesticides;
- e) To accept proposal of new / revised MRLs/EMRLs and exempted pesticides;
- f) To dovetail the proposed Regulation with the registration of pesticides for use on food crops under the Pesticides Ordinance (Cap. 133); and
- g) To commence the proposed Regulation after a two-year grace period.

35. Dr. John LUM went through three major issues of concerns to trade at the meeting and these were as follows:

- a) MRLs/EMRLs for foods in a dried, dehydrated or concentrated form and for compounded food – the regulatory control of pesticide residues in foods in this aspect had taken reference from practice in other places. The main factor of consideration for foods in a dried, dehydrated or concentrated form was the change of water content with a corresponding calculation of such change and that for compounded food was the proportion of a food ingredient in a multi-ingredient product with the calculation of the applicable MRL/EMRL.
- b) Documents and data required for proposal of new / revised MRLs/EMRLs and exempted pesticides – There were concerns with CFS on the accessibility by importers/food trade to relevant information, such as supervised field trial data, generated and owned by pesticide companies. In this respect, for MRL/EMRL or exempted pesticide adopted by Codex or in force in other places, trader may simply provide evaluation reports published by the Joint FAO/WHO Meetings on Pesticide Residues (JMPR), or other competent authorities, to support the proposal. Indeed, field trial data were still desirable but they were not essential unless the proposal was for establishing a brand new MRL currently not in force anywhere in the

world.

- c) Dovetailing with registration of pesticides for use on local food crops – It was noted that pesticides for sale in Hong Kong were required under Cap. 133 to be registered with the Director of Agriculture, Fisheries and Conservation (DAFC). To ensure a pesticide for use on local food crops registered under Cap. 133 was properly regulated under the proposed Regulation, DAFC would require the applicant of such pesticide to provide information about the MRL(s) of the pesticide concerned in Schedule 1, or whether the pesticide concerned was an exempted pesticide in Schedule 2, to the proposed Regulation. If information was not available, the applicant should first propose to Director of Food and Environmental Hygiene (DFEH) for the related MRL(s) or exempted pesticides before submitting the application to DAFC under Cap. 133. This should ensure close coordination between the regulatory framework and Cap. 133 for the registration.

36. Dr. John LUM advised that, in the current proposed schedules of the refined regulatory framework, the list of MRLs/EMRLs had been updated with reference to the latest available standards, as of April 2011, in Codex, the Mainland, USA and Thailand. They had also taken into consideration of comments received during the consultation and added with pesticide-food pairs of local concern as advised by DAFC. The risk assessment on the List of MRLs/EMRLs based on local food consumption patterns had been completed to ensure adequate protection of public health in Hong Kong. The current List of MRLs/EMRLs, which covered food items commonly found in the local diet, was already uploaded on CFS website. Regarding the list of exempted pesticides, it had been updated with reference to the latest development in the international communities and views received during the consultation. At the moment, the proposed Pesticide Residues in Food Regulation

(Regulation) was being finalised aiming to table it at LegCo within the legislative session 2011-12. Thereafter, technical support through guidance documents, briefings, or workshops, etc. would be provided to trade during the two years grace period to facilitate the trade in complying with the proposed Regulation. Meanwhile, guidance document under preparation for reference of trade included food classification for applying MRLs/EMRLs, proposal for adding/revising MRLs/EMRLs and exempted pesticides, etc.

37. The Chairman advised that the version of the Regulation to be tabled at the LegCo was already uploaded on CFS website. During the two years grace period, CFS would update the List of MRLs/EMRLs to capture the latest international development on the matter. The Regulation would then come into force formally after the two years grace period.

38. A trade representative sought advice on whether trade might offer views on a certain MRL/EMRL during the grace period. Dr. Teresa CHOI advised that views from trade with a proposal and supporting information and data for reference were welcomed and CFS would consider it. The Chairman supplemented that trade might continue to offer views on MRL/EMRL with supporting information after the formal commencement of the Regulation and the Regulation would be updated or amended accordingly.

39. The Chairman advised that work on the regulatory framework would continue and not ending at tabling the proposed Regulation at the LegCo. CFS would prepare guidelines to assist trade in complying with the regulatory framework.

Agenda Item 7

Enforcement Strategy Against Labelling Irregularities of Locally Manufactured

Prepackaged Festive Foods

40. Mr. CHENG Wai Kit briefed the meeting on the enforcement strategy against labelling irregularities of prepackaged festive foods. There were feedbacks in the past revealing that irregularities were observed on food label or nutrition label on prepackaged festive foods. After considering the short period of time for sale of these festive foods, new enforcement strategy had been formulated to deal with irregularities of such foods and this would likely start from the coming Dragon Boat Festival. There was enforcement strategy in force for prepackaged food but the time frame was long. In response to a relatively short period of sale with festive foods, the new enforcement strategy would adopt a shorter time frame. Inspection and testing would be strengthened under the new enforcement strategy for these prepackaged festive foods.

41. Mr. CHENG Wai Kit advised that, under the new enforcement strategy, if irregularities were detected on label of prepackaged festive foods, a verbal warning would be delivered requiring rectification of irregularity within seven days. This would be followed by a warning letter if the irregularity was not rectified within seven days. In case the irregularity was still not rectified after seven days, prosecution would be taken out. The offender would be liable to a fine of \$50,000 and imprisonment for six months. The main difference of the new enforcement strategy from the standing one was a shortened period for rectification where 60 days were given to the trader for rectification of visual irregularities. However, for chemical discrepancies, the current enforcement strategy would continue to be adopted where a 21 days letter for explanation, would be issued, followed by a warning letter for rectification within 39 days. Prosecution would then be taken out if irregularity was not rectified after 39 days. It was anticipated that the new enforcement strategy would affect mostly festive foods produced by restaurants and bakeries.

42. A trade representative sought advice on the definition for festival and suggested that a definition should be drawn up for festival. The Chairman advised that the definition for festive food was determined by the market. It comprised all festivals, depending on the trend and the promotion of the market. There were several popular festivals being targeted at under the new enforcement strategy but this did not imply the exclusion of other festivals, in particular some new festivals that might be advocated by the market. He pointed out festive foods under the new enforcement strategy referred to problematic ones where there was no food label or nutrition label provided on them.

43. A trade representative sought advice on whether glutinous rice dumpling, which was regarded a festive food, was classified as festive food and came under the new enforcement strategy in view that this food was available for sale the whole year round nowadays. The Chairman advised the demarcation on festive foods was based on the festival, not the type of foods. Foods that were available for sale all year round already came under the standing enforcement strategy. The new enforcement strategy therefore aimed at festive foods for sale for a short period of time. Mr. CHENG Wai Kit advised that foods available for sale all the year round could come under the standing enforcement strategy; appropriate enforcement action would have been taken if irregularities were detected.

Any Other Business

Durability Indication of Prepackaged Foods

44. Mr. CHENG Wai Kit briefed the meeting on legislative requirements for indicating the durability of prepackaged foods for the attention of trade. There were two types of durability indication required by Food and Drugs (Composition and Labelling) Regulations, Cap. 132W, i.e. “Use by” date and “Best before” date, for PFPs. “Use by” date applied to

PFPs that were highly perishable from the microbiological point of view, such as pasteurized milk, prepackaged sandwiches with egg and ham, prepackaged chilled meat, etc. and their period of storage after manufacturing was relatively short. After the “Use by” date, the food might deteriorate and consumption of the food was likely to constitute an immediate danger to health. Therefore, sale of PFPs after their “Use by” date was an offence. For “Best before” date, it applied to those PFPs that were not easy to perish, such as candies and canned beverages, and their period of storage was relatively longer.

45. Mr. CHENG Wai Kit advised that, in law enforcement, the actions for irregularity detected were different between the two types of durability indication. For sale of PFPs with durability indication not in prescribed format or beyond “Use by” date, it was an offence and would result in prosecution and liable to a maximum fine of \$50,000 and imprisonment up to six months. On the other hand, irregularities detected for “Best before” date would not lead to prosecution but advice to cease selling the PFP. By law, durability indicated on PFPs could not be altered freely by retailers. It might only be amended by the manufacturer or packer of the PFP, or a party authorised to do so by the manufacturer or packer in writing. Amendments to the durability indication by retailer without proper authorisation would be prosecuted and was liable to a maximum fine of \$50,000 and imprisonment up to six months. In reply to an enquiry from a trade representative, the Chairman advised that authorisation in writing by email was acceptable.

46. Mr. CHENG Wai Kit emphasized the importance of durability indication and advised that the trade should adopt “First-in-first-out” principle for the storage of food. Trade should not sell PFPs after expiry of the durability indication and should pay attention to the completeness of packaging of PFPs. The Chairman advised that it was contravention of law to sell PFPs after expiry of “Use by” date. Although it was not a contravention of law to

sell PFPs after expiry of “Best before” date, it was still not advisable to sell them. If it was decided to sell PFPs with an expired “Best before” date, it was recommended to consider overseas practice of informing consumers accordingly and sold them at a discounted price.

47. A trade representative sought advice on whether there was law to protect consumers who was sick after consuming PFPs with an expired date of “Best Before”. The Chairman advised that there was legislation to regulate the quality of food. If the quality became deteriorated, it might contravene the law. Mr. CHENG Wai Kit advised that CFS would follow up the complaint cases, including the collection of food sample suspected of causing sickness for laboratory testing, when PFPs with an expiry date of “Best Before” was consumed.

Nutrition and Health Claims on Prepackaged Food

48. Ms. Melissa LIU briefed the meeting on a study conducted by CFS jointly with CC on NL and related claims on PFPs for infants and children. The NL legislation, which came into force on 1 July 2010, focused on the NL & nutrition claim requirements of general PFPs and this was not applicable to food intended principally for consumption by children under the age of 36 months. However, there was related legislation, i.e. Section 61 under Public Health and Municipal Services Ordinance, Cap. 132, requiring the information on such products to be factual and non-misleading. The study aimed at evaluating the current situation of NL and related claims in foods intended for infants and young children with a view to developing local guidelines as advice for trade and consumers. The result of study was published in “Choice” magazine and was released on CFS website on 16 April 2012. She presented the study result on claims in details. In the study, there were two considerations in the evaluation of claims. They were the criteria for evaluating the

scientific substantiation of health claims as suggested by Codex and evaluation opinions, decisions and guidelines from competent authoritative bodies and major regulatory authorities.

49. Ms. Melissa LIU drew the attention of the meeting to the study that there were four claims deserving discussion due to the lack of internationally recognized scientific substantiation to support them and there was a label that might cause confusion to consumers. The four claims and one sample label were as follows:

- a) Vitamin E and Immunity – Vitamin E was a fat-soluble vitamin, naturally present in cereals, nuts, etc. It was proven to have antioxidant property but a cause and effect relationship between dietary intake of vitamin E and maintenance of normal immunity could not be established;
- b) Choline and Eye Development – Choline was a component in the common neurotransmitter, acetylcholine, of the central nervous system. It was also an essential component for cell membrane synthesis and was important for brain development. However, internationally recognised scientific evidence was pending to support claims related to dietary intake of choline and eye development in human infants and young children;
- c) Probiotics and Immunity – There was not yet available internationally recognised scientific evidence showing the microorganisms contained in that sample under the study could support immunity;
- d) Probiotics and Allergy – There was not yet available internationally recognised scientific evidence to establish that food with the probiotics could prevent allergy; and
- e) Label that may cause confusion to consumers – The label included the statement

“Intestinal health is the essence for babies’ immunity. XXX Infant Cereals contain Bifidus BL, DHA and multi nutrients which helps babies grow healthily day by day”. It was considered that such presentation might lead the consumers to associate DHA and immunity. It was suggested that traders should be aware of the presentation of product labels to avoid causing confusion to the consumers.

50. Ms. Melissa LIU informed the meeting that CFS was carrying out follow-up investigation against the relevant products on whether they might have been calculated to mislead consumers. Traders had been required to provide scientific evidence to support the claims in concern. She reminded that claims of PFP should only be made when there was substantiation on its truthfulness based on two principles:

- a) When a claim was made on the function of specific substance(s), the quantity of the substance(s) in the food product must be sufficient to provide the said function; and
- b) The claim should be based on scientific substantiation and scientific consensus.

She strongly recommended that traders should avoid using claims which were controversial, even if there were individual studies supporting them. Such claims might confuse consumers and lead to complaints and criticisms.

51. A trade representative sought advice on whether there were appropriate wordings suggested for the sentences quoted in the discussion to illustrate “Label that may cause confusion to consumers” in order to avoid confusing consumers. Dr. Teresa CHOI advised that the overall package of the PFP, where full information was provided, should be referred to for examination as the sentences quoted formed part and parcel of the whole package. The Chairman advised that CFS was not in a position to discuss at the meeting a particular case

but traders were welcomed to exchange opinions with staff of CFS after the meeting.

52. A trade representative sought advice on the definition for internationally recognized scientific evidence, whether there were changes with the assessment principles from those discussed at the last meeting of TCF, whether a health claim must be approved by a regulatory body for it to be acceptable and whether a separate meeting would be held for trade to discuss more on the principles for the issue. Ms. Melissa LIU advised that, for the purpose of that study, Codex's recommended criteria on scientific evidence for assessing health claims, as well as health claims assessed or approved by authoritative bodies and regulatory authorities were being considered. The Chairman advised that there were no conflicts between the contents discussed at this meeting and the last meeting and they were consistent. Regarding how a health claim was assessed, it would depend on the strictness in the assessment. There was no good local "ruler" for assessment at the moment. Assessment had to be carried out on a case-by-case basis. Ideally, there was an international authority to approve the claim and a regulatory body to permit it. Other than that, there were numerous scenarios to come across. To play safe, it was recommended to provide health claims where there was international consensus on them; claims that were still being challenged should be avoided. He wished that the Regional Symposium to be held later by end of 2012 might offer more expert advice on this issue and the regulation would become more systematic thereafter. Although there was not yet a set of guidelines for reference of trade, the issue was discussed with trade on many occasions and principles adopted for assessment were exchanged with trade in the last two meetings of TCF. In the coming one to two years, the issue would be further discussed.

53. A trade representative sought advice on whether the similar regulatory framework developed under the NL Scheme might be applied to health claims for food intended for

infants and children from 0 to 3 years of age. The Chairman advised that it was not a simple task to regulate claims. There was work in progress on the issue but it was still a long way before a clear set of guidelines for regulation might be developed in light of the absence of local experience in regulating this issue. The guidelines developed for regulation purpose must be suitable for Hong Kong. Claims that were approved overseas might not be suitable for Hong Kong. He stressed that current focus would be placed on claims that might not receive international approval and trade should pay attention to these claims.

Food Safety Charter iPhone App and Promotion Work on OpenRice

54. Mr. HO Kwok Wai introduced to the meeting Food Safety Charter (FSC) iPhone mobile application FSCharter, with real time demonstration, and publicity of FSC on OpenRice website, a dining guide on the internet, to promote FSC. The FSCharter developed by the CFS was launched in March 2012. It facilitated public searching of the food premises signing up to the Charter anytime and anywhere. Instructions on downloading FSCharter were available on CFS website.

Date of Next Meeting

55. Trade representatives would be notified of the date of next meeting.

56. There being no other business, the meeting was adjourned at 5:50 p.m.