

Centre for Food Safety
Food and Environmental Hygiene Department
Notes of the Fourteenth Meeting of the Trade Consultation Forum held on
19 December 2008 at 10:00 a.m. in Conference Hall, 3 Edinburgh Place, Central, Hong Kong

Present

Government Representatives

Dr. Y. Y. HO	Consultant (Community Medicine) (Chairman) (Risk Assessment & Communication)
Dr. S. Y. LEE	Assistant Director (Food Surveillance & Control)
Dr. Anne FUNG	Principal Medical Officer (Risk Assessment & Communication)
Mr. W. C. LEE	Senior Superintendent (Centre for Food Safety)1
Mr. P. W. NG	Superintendent (Food Surveillance & Labelling)
Ms. K.C. CHU	Chief Health Inspector (Import/Export)Special Duties
Dr. T. K. CHONG	Scientific Officer (Microbiology)
Mr. H. M. WONG	Superintendent (Risk Communication) (Notes-taker)

Trade Representatives

Mr. Peter Johnston	A.S. Watson Group (HK) Ltd.
Ms. TING Ka Wai	Master Kong (HK) Trading Co., Ltd.
Mr. WONG Kit Lung	Chinese Cuisine Management Ltd.
Mr. YEUNG Hon Cheung	Chinese Cuisine Management Ltd.
Ms. May KAN	Coca-Cola China Ltd.
Mr. Perry SIT	The H.K. Health Food Association Ltd.
Ms. Evelyn CHAN	Fairwood Holdings Ltd.
Ms. Yvonne CHAU	Frieslandfoods HK Ltd.
Ms. Grace CHAN	Glaxo Smith Kline
Mr. Dennis NG	Keencity Enterprises Ltd.
Ms. Angela LEE	Health Max Nutrition Centre Ltd.
Mr. Philip KWAN	Mead Johnson
Ms. Eleanor CHAN	Nestle Hong Kong Ltd.
Mr. Joseph MA	Nestle Hong Kong Ltd.
Mr. HUI Yiu Kai	Nissin Foods Co., Ltd.

Ms. LEUNG Kit Yan	ParknShop
Ms. LEUNG Po Ting	ParknShop
Mr. CHAN Wing Cheong	Pat Chun Int. Ltd.
Mr. Tony TANG Kwok Fai	San Migual Brewery HK Ltd.
Mr. WONG Chi Fung	SGS HK Ltd.
Ms. Virginia MO	Snow Brand (HK) Co., Ltd.
Mr. WONG K.C.	Swire Coca-Cola HK
Mr. James Dizenzo	The American Club, HK
Mr. James HO	The Asia Provisions Co., Ltd.
Ms. Wendi CHAN	The Dairy Farm Co., Ltd.
Ms. May LO	The Dairy Farm Co., Ltd.
Ms. Sharon YOU	Hai Kang Life Corporation Ltd.
Mr. Samuel CHAN	The Garden Co Ltd.
Mr. CHENG Chung Tak	The Garden Co Ltd.
Mr. LAW Chi Sang	The Garden Co Ltd.
Ms. Angela WONG	The Garden Co Ltd.
Mr. CHAN Wai Lun	Winner Food Products Ltd.
Ms. Florence HO	Wyeth
Ms. Karen LEE	Wyeth
Mr. K. K. CHEUNG	Zuellig Pharma Ltd.
Ms. Joyce WOO	Zuellig Pharma Ltd.

Opening Remarks

1. The Chairman welcomed all trade representatives and wished them a Merry Christmas. He introduced Government Representatives attending the forum to the meeting.

Confirmation of the Notes of Last Meeting

2. The notes of last meeting were confirmed without amendments.

Agenda Item 1

Draft Code of Practice on Section 78B Orders under Part VA of Public Health and Municipal Services (Amendment) Bill 2008

3. Mr. P. W. NG introduced to the meeting the Public Health and Municipal Services (PH&MS) (Amendment) Bill 2008 and the draft Code of Practice on Section 78B Orders under Part VA of PH&MS (Amendment) Bill 2008. Views would be sought from trade representatives on the draft Code of Practice.

Background of the PH&MS (Amendment) Bill 2008

4. Mr. P. W. NG explained the background leading to the introduction of the PH&MS (Amendment) Bill 2008. Food incidents in the past years revealed that there were inadequacies in the Public Health and Municipal Services Ordinance (Cap 132) in the control of food safety. A proposal on the formulation of a Food Safety (FS) Bill with new food safety control tools for the better protection of public health had been submitted to the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene. The FS Bill would include new food safety control measures, including a mandatory registration scheme for food importers and distributors, requirement for food traders to maintain proper records on the movement of food so as to enhance traceability, specific import control for food types, and powers for the Authority to make orders administratively to prohibit the import and supply of problem food and order a recall of the problem food. The LegCo Panel on Food Safety and Environmental Hygiene was briefed on the proposed FS Bill on 11 December 2007 and public consultation was conducted thereafter. It was planned to introduce the FS Bill to the LegCo within 2008-09. However, it was not able to introduce the full FS Bill at this juncture as the FS Bill required further liaison with the trade on the

operational details and involved complex legal issues.

5. In light of the incident of detecting melamine in milk and dairy products, calls for empowering the Authority to prohibit the import and supply of food and to order a recall of the food concerned at an early stage had been triggered. Given the immense public concerns over the matter, there was a pressing need to expedite work on the part of administrative orders to prohibit the import and supply of food and to order a recall of the food concerned in the FS Bill proposed and hence to amend Cap 132 accordingly as a matter of urgency to relieve public concerns, before the introduction of the full FS Bill.

6. Mr. P. W. NG continued that the PH&MS (Amendment) Bill 2008 had been introduced to the LegCo for First Reading and Commencement of Second Reading Debate on 5 November 2008. The Bills Committee on PH&MS (Amendment) Bill 2008 was formed and had met on 18 November 2008, 4 & 11 December 2008 to deliberate the Bill.

Main Features of the PH&MS (Amendment) Bill 2008

7. Mr. P. W. NG said that the main features of the PH&MS (Amendment) Bill 2008 were to add a new Part VA to Cap 132 under clause 2 of the Bill. The meeting was briefed on the clauses under Part VA as follows:

- (a) The new section 78B empowers the Director of Food and Environmental Hygiene (DFEH) to make orders (“section 78 B orders”) if it is necessary to prevent or reduce the possibility of a danger to public health or to mitigate any adverse consequence of a danger to public health, and the orders may –

- (i) prohibit the import of any food;
 - (ii) prohibit the supply of any food;
 - (iii) direct that any food be recalled;
 - (iv) direct that any food be impounded, isolated, destroyed or otherwise disposed of; or
 - (v) prohibit the carrying on of an activity in relation to any food or permit the carrying on of such activity in accordance with conditions.
- (b) The new section 78C specifies the service of section 78B orders addressed to particular persons and publication in the Gazette for section 78B orders addressed to a class of persons or to all persons.
- (c) The new section 78D stipulates that it is an offence for the contravention of section 78B orders.
- (d) The new section 78E empowers DFEH to require a person bound by a section 78B order to inform DFEH of the actions taken in relation to the order or provide samples for analysis / bacteriological examination / other examination.
- (e) The new section 78F empowers DFEH to obtain information or copies of documents before making, varying or revoking section 78B orders.
- (f) The new section 78G provides that appeals against section 78B orders lie with the Municipal Services Appeals Board (MSAB).
- (g) The new section 78H specifies factors to be taken into account for applying compensation.
- (h) The new section 78I provides for the seizure, marking or destruction of food that is the subject of a section 78B order if a term of the order has been contravened.
- (i) The new section 78J provides for liability of employers for acts and omissions of their employees.

**Code of Practice on Section 78B Orders under Part VA of Public Health and
Municipal Services (Amendment) Bill 2008**

8. Mr. P. W. NG advised that there would be Code of Practice on Section 78B Orders under Part VA of Public Health and Municipal Services (Amendment) Bill 2008 to assist the food trade in observing the law and the draft Code of Practice was available at the website of Centre for Food Safety (CFS) for viewing. The Code of Practice served to explain the relevant powers of the Government and set out the actions that the trade should take for compliance with Section 78B Orders. It was composed of nine chapters and four appendices. He briefed the meeting on the Code of Practice paragraph by paragraph and sought views from the meeting on this document.

9. The meeting exchanged views on the following paragraphs of the Code of Practice:

- (a) Paragraph 3.1 – The definition on “Food” in section 2(1) of Cap 132 might require elaboration as the existing content did not provide details on food items that were covered by the respective ordinance. Dr. S. Y. LEE said that Cap 132 had been enforced for many years and there was no difficulty in applying the definition. This notwithstanding, the suggestion of stating the definition for “Food” in section 2(1) of Cap 132 would be considered in the context of the Code of Practice.
- (b) Paragraph 2.2 – The trade should be informed in advance of any revision to the Code of Practice. The Chairman said that revision to the Code of Practice would be conducted in a transparent manner and the food trade would be consulted as far as possible prior to any revision.
- (c) Paragraph 4.1 – A clear definition on “reasonable grounds” should be

provided. Dr. S. Y. LEE pointed out that paragraph 6.1 already provided the factors or “reasonable grounds” to be considered before making an order.

- (d) Paragraph 6.1 – In making a section 78B order, emphasis should be put on threats to public health instead of statutory requirements. Mr. W. C. LEE said that an order would be made when public health was endangered and in parallel with the suspension of the importation of the food product concerned when situation warrants.
- (e) Paragraph 6.4 – The Rapid Alert System (RAS) should be deployed when making public announcements. Dr. S. Y. LEE pointed out that paragraph 6.4(a) already stated that information would be disseminated to the public through the RAS.
- (f) Paragraph 7.1 – The need of consulting the Government before taking out recalling actions would discourage good traders to take out voluntary actions to suspend sale of food products. Food traders should be free to recall their products at their own discretion as precautionary measures arising from internal investigation or quality control. Dr. S. Y. LEE advised that there was no intention to discourage food traders from taking out voluntary actions to suspend sale of food products or recalling food products for internal quality control reasons. The Government would not intrude into the commercial operation of food traders unreasonably. However, the Government had a role in suspending the sale of affected food product and other food traders might have to be informed in parallel. It was therefore necessary for food traders to notify the Government on the recall strategy of food beforehand. Nevertheless, the amendments proposed to paragraph 7.1 would be considered.

- (g) Paragraph 7.8 – Consumers should not be informed of matters that were of a trivial nature. Dr. S. Y. LEE said that, as in the past, important food safety messages would be announced promptly and the same arrangement would continue in future. Feedbacks on the usefulness of a message to the public would be welcome.
- (h) Paragraph 7.11 – The Government should coordinate efforts of the trade in taking out follow-up actions and a flow chart relating to the Code of Practice should be provided to food traders for reference on the required follow-up actions. Dr. S. Y. LEE advised that it was not practicable to prepare flow charts for all food traders as individual food traders might require different charts. Food traders were encouraged to develop their own procedures on the required follow-up actions.
- (i) Paragraph 8.2 – There was reservation to involve the MSAB before compensation would be considered. Dr. S. Y. LEE noted and explained that, according to the Bill, compensation would only be considered when the MSAB vary or set aside the order and that the Government had acted without enough justification when it made the order.

10. Dr. S. Y. LEE advised that the Code of Practice would also not apply to drugs and Chinese medicines which came under the purview of other legislation. The suggestion of adding more details on the role played by food traders in recalling food products at every stage would be studied. The Chairman summed up that cooked food prepared at food outlets for immediate consumption inside food premises was not the target of the Code of Practice.

11. Dr. S. Y. LEE and Mr. W. C. LEE left the meeting after Agenda Item 1.

Agenda Item 2

Supplementary Information on Microbiological Guidelines for Ready-to-eat Food

12. Dr. T. K. CHONG presented to the meeting the supplementary information on Microbiological Guidelines for Ready-to-eat Food. The supplementary information was recommended by Ad Hoc Working Group on Microbiological Safety of Food with endorsement of the Expert Committee on Food Safety and should be read together with the Microbiological Guidelines for Ready-to-eat Food issued in May 2007. It provided newly adopted microbiological criteria for ready-to-eat food covering the following items:

- (a) Bottled water – natural mineral water and bottled / prepackaged water (except natural mineral water);
- (b) Edible Ice – ice cubes from ice manufacturing plants and from retail business; and
- (c) Non-bottled drinks.

13. The Chairman said that the newly adopted microbiological criteria were formulated locally after making reference to standards recommended by the Codex Alimentarius Commission (Codex) and other countries. They would be introduced in 2009-10. Relevant trades should observe the new criteria. The supplementary information would be available for downloading from the website of CFS later.

Agenda Item 3

Enterobacter sakazakii in Powdered Infant Formula

14. Dr. T. K. CHONG presented to the meeting the guidelines on *Enterobacter sakazakii* in powdered infant formula that had been updated by the World Health Organization (WHO) and Food and Agriculture Organisation of the United Nations (FAO). The infection of *Enterobacter sakazakii* was a high risk to new born babies, especially those who were pre-maturely born, with low-birth-weight or immunocompromised. Manufacturers of powdered infant formula were recommended to observe the guidelines on safe preparation, storage and handling of powdered infant formula issued jointly by the FAO/WHO. Codex also provided guidelines on the same aspect and the information is available from the website of Codex for viewing.

15. The Chairman pointed out that the updated guidelines were different from the previous ones. The previous guidelines focused on the risk of *Enterobacter sakazakii* to pre-maturely born babies and the updated guidelines had been extended to cover all new born babies. They should be observed with immediate effect. The Chairman noted that the updated guidelines recommended hot water of at least 70°C after boiling should be used to prepare powdered infant formula whereas the default temperature of some water boilers in the market were set below 70°C. Manufacturers of these water boilers might have to consider raising the default temperature.

16. Trade representatives informed the meeting that manufacturers of powdered infant formula were monitoring *Enterobacter sakazakii* in the production process and the guidelines recommended by Codex, WHO and FAO were observed. The Chairman said that the CFS food surveillance would include *Enterobacter sakazakii* in powdered infant

formula in 2009-10.

Agenda Item 4

Any Other Business

Importation of Beef from United State of America

17. A trade representative enquired about information on the importation of beef from the United States of America (USA). The Chairman replied that CFS subject officer would brief him the required information after the meeting.

(Post-meeting note: Ms. K.C. CHU provided the trade representative with the required information after the meeting.)

Rapid Alert System (RAS)

18. In order to facilitate prompt communication with the food trade, especially for urgent and important food incidents, CFS has been trying to include food trade into the RAS. Dr. Anne FUNG appealed to the meeting that food traders should actively consider enrolling to the RAS. Information and enrollment form on the RAS were available from the website of CFS.

Date of Next Meeting

19. There being no other business, the meeting was adjourned at 11:55 a.m.