

RESULTS OF THE PUBLIC CONSULTATION EXERCISE ON PROPOSED AMENDMENTS TO THE PRESERVATIVES IN FOOD REGULATIONS

PURPOSE

This paper summarises the results of the public consultation exercise on the proposed amendments to the Preservatives in Food Regulations.

BACKGROUND

2. In Hong Kong, the control on the use of preservatives and antioxidants in food is governed by the Preservatives in Food Regulations (CAP. 132BD). The Regulations stipulate that any food being imported, manufactured for sale, or sold should only contain permitted preservatives and antioxidants and in the proportion specified.

3. Although amendments were made to the Regulations from time to time (the latest one in 2005), further updating of the Regulations is necessary in order to reflect the latest development in food science and technology and keep abreast of international standards.

THE PROPOSAL

4. To address the needs, the Government proposes to amend the Regulations by making reference to Codex¹ standards, including the

¹ The Codex Alimentarius Commission was created in 1963 by the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) to develop food standards, guidelines and related texts.

General Standard on Food Additives (GSFA) and relevant commodity standards. The major proposed amendments include the following - ;

- (a) amendment of the definitions of preservatives and antioxidants;
- (b) incorporation of those preservatives and antioxidants, as well as their permitted levels of use, that are listed in the GSFA into the Regulations;
- (c) combining Part I and Part II of the First Schedule to the Regulations;
and
- (d) introduction of a food category system.

PUBLIC CONSULTATION

5. To seek views from members of the public, trade and other stakeholders on the broad direction and principles of the amendment exercise, the Centre for Food Safety (CFS) issued a consultation paper and started public consultation on proposed amendments to the Preservatives in Food Regulations on 14 December 2006. The views sought are detailed in Annex I.

6. We sent copies of the consultation paper to food trade associations and individual companies, consulates, relevant authorities in the Mainland, the Consumer Council, the Legislative Council, District Councils and the World Trade Organization. The consultation paper was also made available to the public on CFS's website. Two public consultation forums were held on 23 January 2007 at the Hong Kong Science Museum and 7 February 2007 at the Hong Kong Central Library respectively. The consultation period ended on 28 February 2007.

Public consultation forums

7. A total of 276 participants attended the two consultation forums. Among them, 240 (about 87%) were from the trade & consulates. The rest included general public, academics, representatives from consumer associations, medical sector, Government, Legislative Council, District Councils and Consultative Committees etc. The categories of the participants are summarized in Annex II.

8. A total of 191 participants (69% of the total number of forum participants) completed and returned an evaluation questionnaire. The majority (ranged from 74% to 93% depending on the proposed amendment consulted) of the respondents fully agreed or agreed with the broad direction and principles in the proposed amendments. Table 1 summarises the views of the respondents on each of the four issues. Detailed analysis of the views of respondents in the forum is summarised in Annex III and other comments put down in the returned questionnaires are in Annex IV.

9. During the consultation forums, the participants' view on the need to conduct a Regulatory Impact Assessment (RIA) was sought and they generally considered that a RIA was not needed for the amendment exercise.

Table 1 Summary of the views of the participants of the two consultation forums

Aspect	Agree / Totally Agree	Disagree / Totally Disagree	No Comments
Amendment of Definitions	178 (93.2%)	1 (0.5%)	12 (6.3%)
Adoption of GSFA	170 (89.0%)	6 (3.1%)	15 (7.9%)
Combination of Part I & II	141 (73.8%)	5 (2.6%)	45 (23.6%)
Food Category System	154 (91.1%)	5 (2.6%)	12 (6.3%)

Written submissions

10. We received a total of 25 written submissions. Among them, 17 (about 68 %) were from the food trade, two were from consulates, three were from general public and the remaining three were from authorities in the Mainland, Consumer Council and Department of Health. The sources of the written submissions are summarized in Annex V.

11. Among the 25 submissions, 24 fully supported / agreed with the scope of the proposed amendments. One submission disagreed with the proposal to amalgamate the preservatives and antioxidants in GSFA with those in the Regulations, for fear that a wide variety of the writer's products will be affected, but agreed with other proposed amendments.

12. Two of the submissions urged the Administration to organize technical meetings with the trade before implementation of the amendments and five submissions requested the Administration to expedite the amendment process. One submission suggested a 2-year grace period and another suggested a 3-year grace period be given before the proposal comes into effect. One submission suggested the Administration to adopt the Mainland's food category system instead of the one adopted by the Codex. A more detailed analysis of the views and the Administration's responses are summarised in Annex VI.

Centre for Food Safety

Food and Environmental Hygiene Department

June 2007

Views Sought

6.3 The Administration invites you to let us have your views on the following issues :

- (a) Do you agree with the proposal to amend the definitions of preservatives and antioxidants to be in line with Codex definitions, the international standards, and, if yes, do you agree with the proposed definitions? (Paragraphs 4.4 and 4.5)
- (b) Do you agree with the proposal to amalgamate the preservatives and antioxidants in GSFA with those in the Regulations so that the food trade can have a wider choice of safe preservatives and antioxidants at their disposal? (Paragraphs 4.6 to 4.8)
- (c) Do you agree with the proposal to combine Part I and Part II of the First Schedule to the Regulations to simplify the legal requirements; (Paragraph 4.9)
- (d) Do you agree with the introduction of a food category system for more user-friendly categorisation of food? (Paragraphs 4.10 to 4.14)

(Extracted from the Consultation Paper on Amendment to Preservatives in Food Regulations)

ANNEX II

Summary Statistics on the Category of Participants in the Two Public Consultation Forums

Category	No. of Participants in the 1st Forum on 23 Jan 2007	No. of Participants in the 2nd Forum on 7 Feb 2007	Total Participants
Food Trade / Consulates	125 (86.2%)	115 (87.8%)	240 [87.0%]
Public / Consumer Associations	8 (5.5%)	6 (4.6%)	14 [5.1%]
Others	8 (5.5%)	4 (3.1%)	12 [4.3%]
Academics / Medical	3 (2.1%)	2 (1.5%)	5 [1.8%]
Government	1 (0.7%)	2 (1.5%)	3 [1.1%]
Legislative Council / District Councils / Consultative Committees	0 (0%)	2 (1.5%)	2 [0.7%]
Total:	145 (100%)	131 (100%)	276 [100%]

() % of total nos. of participants in one forum.

ANNEX III(a)

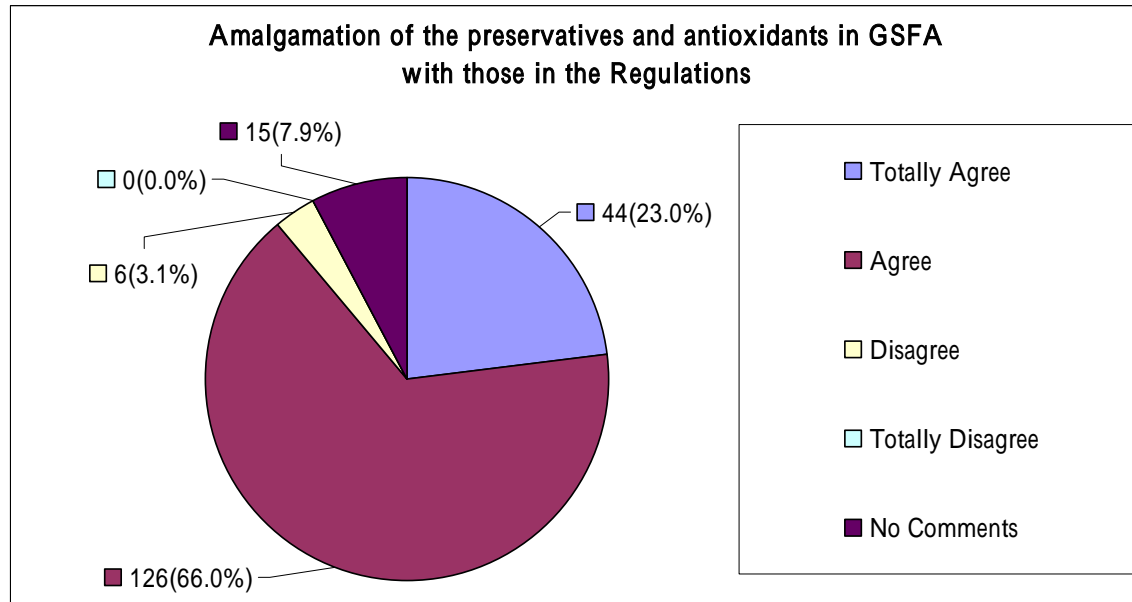
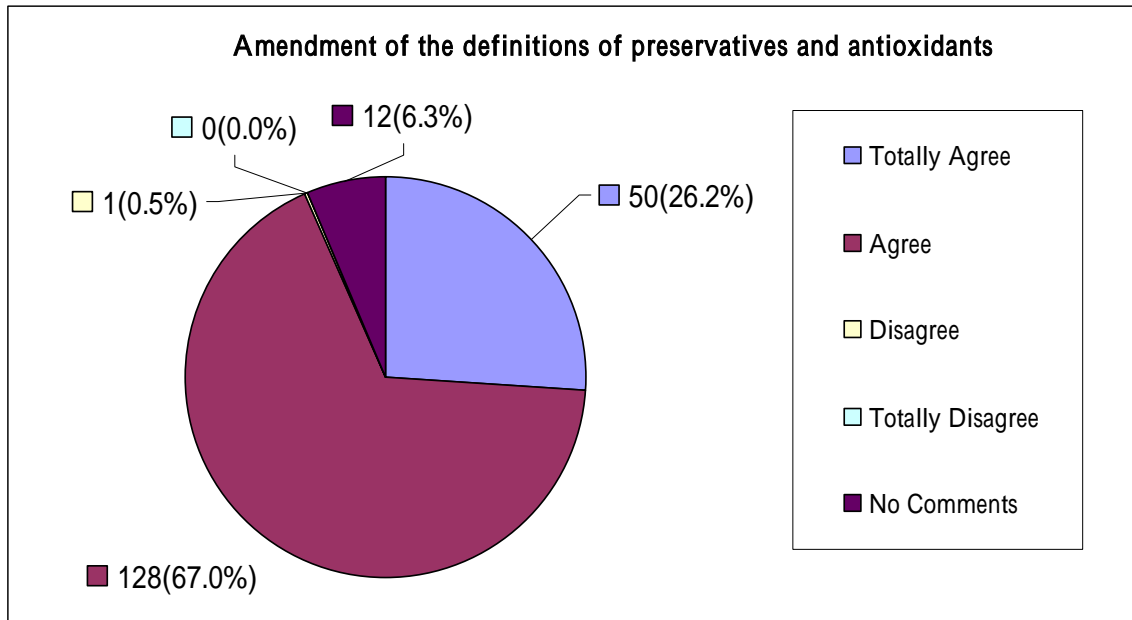
Analysis of the Questionnaires received from Forum Participants on 23 January 2007 (n=114)

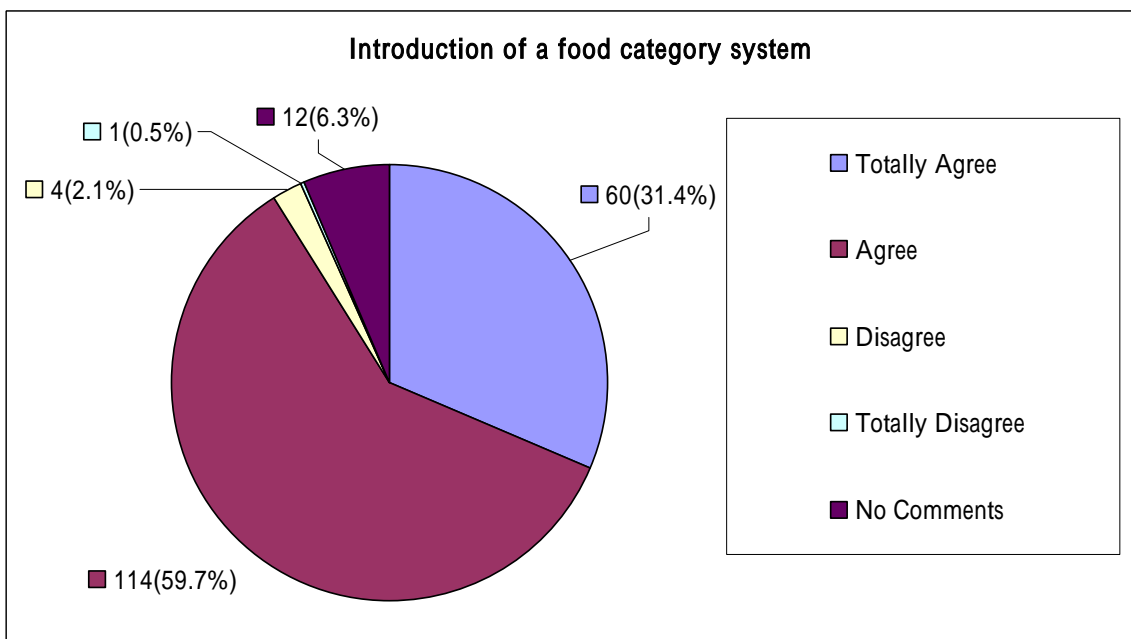
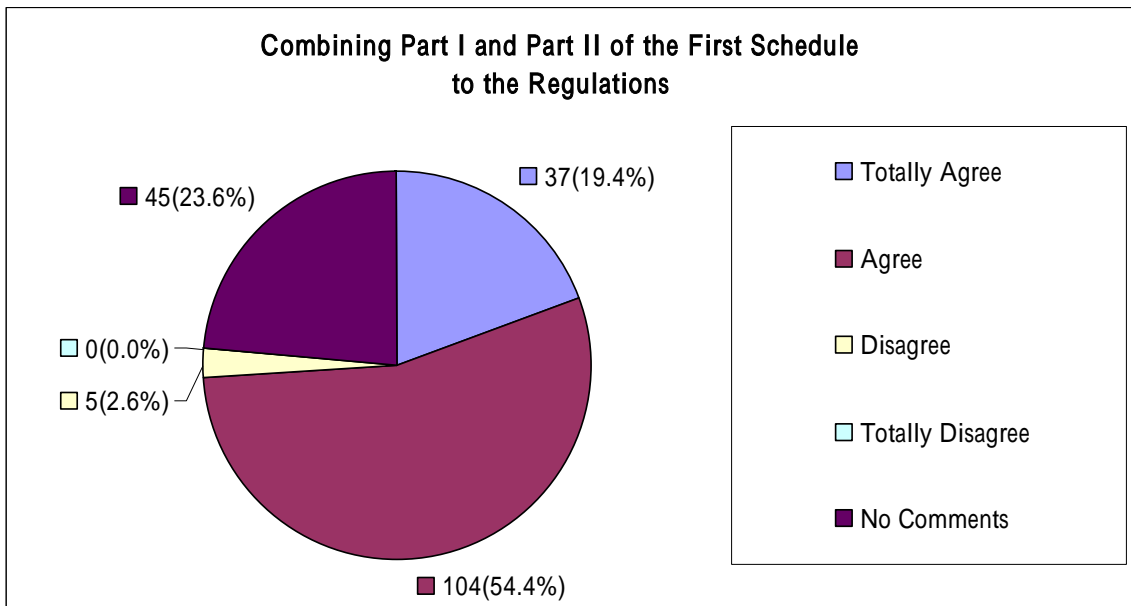
Aspect	Totally Agree	Agree	Disagree	Totally Disagree	No Comments
Amend definition	29 (25.4%)	76 (66.7%)	0 (0%)	0 (0%)	9 (7.9%)
Adopt GSFA	27 (23.7%)	73 (64.0%)	4 (3.5%)	0 (0%)	10 (8.8%)
Combine Part I & II	19 (16.7%)	56 (49.1%)	5 (4.4%)	0 (0%)	34 (29.8%)
Food Category System	39 (34.2%)	65 (57.0%)	2 (1.8%)	1 (0.9%)	7 (6.1%)

Analysis of the Questionnaires received from Forum Participants on 7 February 2007 (n=77)

Aspect	Totally Agree	Agree	Disagree	Totally Disagree	No Comments
Amend definition	21 (27.3%)	52 (67.5%)	1 (1.3%)	0 (0%)	3 (3.9%)
Adopt GSFA	17 (22.1%)	53 (68.8%)	2 (2.6%)	0 (0%)	5 (6.5%)
Combine Part I & II	18 (23.4%)	48 (62.3%)	0 (0%)	0 (0%)	11 (14.3%)
Food Category System	21 (27.3%)	49 (63.6%)	2 (2.6%)	0 (0%)	5 (6.5%)

**Summary of the Views of the Participants in the
Two Consultation Forums (n=191)**





Other Comments Received from the Two Public Consultation Forums
Held on 23 January and 7 February 2007

- Categorisation is not clearly defined and it is difficult for the trade to decide on the permitted levels of use of preservatives.
- To include traditional Chinese food such as soya bean products (bean curd stick, soya milk, etc.) in the food category system. The level of preservatives should be stated for food (such as Chinese New Year pudding, turnip pudding) available in Hong Kong.
- How to handle and label residue level of additives?
- Apart from the General Standard for Food Additives (GSFA), reference should be made to the standards adopted by other countries and areas which have close trade relations with Hong Kong. At present, Hong Kong imports most of the raw materials from the Mainland. Will the Administration consider establishing new standards or referring to those used by the Mainland in future legislation? The Mainland's GB2760-2007 should be taken into account.
- On issue (d), specify the permitted levels of preservatives in preserved meat and ready-to-eat meat as preservatives permitted to use in raw meat are not stated.
- On issue (b), as the maximum levels of preservatives / antioxidants are prescribed under the existing legislation, so should the minimum levels. The public are concerned about too much preservatives / antioxidants but the trade hopes that the preservatives can perform their functions.
- How to regulate and present the information on labels if the additives are non-permitted preservatives and the antioxidants are multi-functional?
- If a food item contains more than one preservative/antioxidant, what are the maximum permitted levels? Will the total concentration affect

health?

- If in future, additive such as sulphur dioxide has dual functions, should it be labelled as preservative or antioxidant?
- Restriction should apply to processed food items only and not fresh products such as bean curd, milk or bean sprouts.
- A category for Chinese food items should be added as there is no clear categorisation under the Codex standard. The current categorisation under Cap 132BD is better. For example, “oyster sauces” is at present categorised as Item 58 in Cap 132BD. However, it will be classified as fish products under Codex GSFA Standard food category no. 9.3 or 12.6 (sauces) and the permitted levels of use are different.
- To have a clear plan for the adoption of international standards and regular updates.
- To speed up the implementation process.

ANNEX V**Source of Written Submissions**

<u>Source</u>	<u>No.</u>
<i>Food Trade / Trade Representatives</i>	17
A.S. Watson Group (HK) Limited Coca-Cola China Limited Danisco A/S Denmark Food Products Association HK Retail Management Association HK Suppliers Association Kraft Foods Limited Lee Kum Kee International Holdings Limited Purac Asia Pacific Pte Limited Saving International (Holdings) Limited The Chinese Manufacturers' Association of Hong Kong The Kowloon Dairy Limited Another 5 submissions from trade	
<i>Consulate</i>	2
Australia consulate /Australian Government Department of Agriculture Fisheries and Forestry, Canberra, Australia New Zealand Consulate General	
<i>Authorities in Mainland, Consumer Council & Government Department</i>	3
State Food and Drug Administration Consumer Council, HKSAR Department of Health, HKSAR	
<i>Members of the public on an individual basis</i>	3

Total : 25

Summary of Views Received

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(1)	A.S. Watson Group (HK) Limited	<ul style="list-style-type: none"> Support the proposed amendments set out in the Consultation Paper. 	<ul style="list-style-type: none"> To highlight where existing levels of preservatives / antioxidants would be either reduced or a particular preservative / antioxidant no longer allowed in a particular specified food so that the impact to the trade is fully understood. 	<ul style="list-style-type: none"> Information as regards the comparison of the existing regulation and the proposed one has been uploaded to the webpage of the Centre for Food Safety.
(2)	Coca-Cola China Limited	<ul style="list-style-type: none"> Support the proposal set out under 6.3 in the Consultation Paper. 	<ul style="list-style-type: none"> To include related additives in Tables 3 in the GSFA which are “GMP Additives, Unless Otherwise Specified” into the revised regulations. To incorporate all newly updates by the Codex Committee on Food Additives in a timely manner. To indicate clearly the function of each additive, whether the additive can serve as preservative only, antioxidant only or multi-function both as preservative and antioxidant in the Schedule. To establish a formal channel to enable the introduction or application of food additives which are not yet under GSFA but are permitted in other countries like USA, EU or Japan. To ensure the new food category system covered all categories of food being consumed in HK, whether locally made or imported and new food categories be added whenever necessary. 	<ul style="list-style-type: none"> The proposed amendments will consider only preservatives and antioxidants. Other additives such as colour, sweeteners will not be considered. Suggestion noted although not directly related to current proposed amendment. Functions of additives will follow the classification under GSFA. Suggestion noted. The scope of the proposed amendment would not cover other countries. All existing food items in the market will be included in the proposed food category system.

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(3)	Danisco A/S Denmark	<ul style="list-style-type: none"> Support the proposals set out in the Consultation Paper. 	<ul style="list-style-type: none"> To use the term “antimicrobial” for substances intended for control of micro-organisms of human health significance to distinguish these substances from the preservatives which are solely intended for shelf-life extension. To include whole culture fermentations products and food protection cultures. 	<ul style="list-style-type: none"> The proposed amendment will follow the definition used by Codex. The proposed amendment will adopt a food category system based upon the system developed by Codex.
(4)	Food Products Association	<ul style="list-style-type: none"> Support the proposal that will amend preservative regulations to the GSFA. 	---	---
(5)	HK Retail Management Association	<ul style="list-style-type: none"> Overall in favour of the proposal specifically for the 4 points that deliberated in the Consultation Paper. 	<ul style="list-style-type: none"> To avoid Codex standard preclude meeting other similar international standards currently in place in UK, EU at large. 	<ul style="list-style-type: none"> Current proposal will only consider preservative /antioxidant standards in GSFA.
(6)	HK Suppliers Association	<ul style="list-style-type: none"> Full agreement to the views sought under 6.3 in the Consultation Paper. 	<ul style="list-style-type: none"> To urge the Administration to expedite the amendment process. To organize the technical meetings with trade as soon as possible in March 2007 so that this Amendment would be implemented no later than by July 2007. 	<ul style="list-style-type: none"> Suggestion noted. Two technical meetings had been organised on 12 April and 20 June 2007.
(7)	Kraft Foods Limited	<ul style="list-style-type: none"> Support the proposed amendments set out in Consultation Paper. 	<ul style="list-style-type: none"> To support the rapid implementation of this proposal. 	<ul style="list-style-type: none"> Suggestion noted.
(8)	Purac Asia Pacific Pte Limited	---	<ul style="list-style-type: none"> To consider lactates as one of the approved preservatives, if not in general, maybe specifically for meat, poultry and seafood. 	<ul style="list-style-type: none"> Salts of lactic acid are currently not considered to be preservatives and are permitted for food use.

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(9)	Lee Kum Kee International Holdings Limited	<ul style="list-style-type: none"> Support 6.3(a), (c) & (d) in the Consultation Paper. Object 6.3(b) in the Consultation Paper. 	<ul style="list-style-type: none"> To object (Item 4.8) adopting GSFA standards whenever there are discrepancies of permitted levels between the GSFA and the Regulations because their sauce products are affected. To retain existing permitted level of preservative and anti-oxidants in specified food e.g. in sauce product. Suggest the FEHD to develop a product registration and classification system, similar to the one adopted in Mainland, to avoid disagreement between the trade and Government on categorisation of food items. To have a 2-year transition period for the proposal to come into effect. 	<ul style="list-style-type: none"> Proposed amendments propose the incorporation of preservatives and antioxidants (as well as their permitted levels of use) in the GSFA into the Regulations: <ul style="list-style-type: none"> ■ Codex standards, if present, will be adopted. ■ In situation where there are local standards for specific preservatives and antioxidants in specified food items but there are no corresponding Codex standards, those permitted ones currently in the Regulations will continue to be allowed. ■ If there are discrepancies of permitted levels between the GSFA and the Regulations, the ones listed in the GSFA will be considered for the sake of harmonisation of local and international standards, unless there are strong justifications to adopt a different standard. Suggestion noted. Transition period will be given and the trade will be consulted for the length of the transition period.
(10)	Saving International (Holdings) Limited	<ul style="list-style-type: none"> Full agreement to the views sought under 6.3 in the Consultation Paper. 	<ul style="list-style-type: none"> To expedite the amendment exercise as soon as possible. 	<ul style="list-style-type: none"> Suggestion noted.
(11)	The Chinese Manufacturers' Association of Hong Kong	<ul style="list-style-type: none"> Support the amendment in principle. 	<ul style="list-style-type: none"> To have a 2-year grace period for the proposal. 	<ul style="list-style-type: none"> Transition period will be given and the trade will be consulted for the length of the transition period.

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(12)	The Kowloon Dairy Limited	<ul style="list-style-type: none"> Fully support the Amendments proposed in the Consultation Paper. 	<ul style="list-style-type: none"> To urge the authority to process the amendments as soon as possible. 	<ul style="list-style-type: none"> Suggestion noted
(13)	One submission from the trade	<ul style="list-style-type: none"> Full support of the Amendment. 	<ul style="list-style-type: none"> To put forward immediately revisions when grace period expire in early July of this year. 	<ul style="list-style-type: none"> The amendment exercise will proceed as quickly as possible.
(14)	One submission from the trade	<ul style="list-style-type: none"> Agree with the proposal. 	<ul style="list-style-type: none"> To include those substances already exist in the Codex preservatives and antioxidants list (mentioned in para.4.5 of the Paper) into the new definition. To adopt the Mainland's food category system, rather than the Codex's. 	<ul style="list-style-type: none"> Suggestion noted. Suggestion noted.
(15)	One submission from the trade	<ul style="list-style-type: none"> Good to have a wider choice of acceptable preservatives and antioxidants. 	<ul style="list-style-type: none"> To consider the regulations of the major imported countries from HK regarding the usage of preservatives, before deciding which new preservatives to be added to the list. To align both the list of "Substances not considered as preservatives or antioxidants" and the official list of "INS for food additives", so that manufacturers can be clearer on how to label the functional class of certain ingredients/additives. To re-consider substance such as ascorbic acid and tocopherols which are actually used as a function of antioxidant. 	<ul style="list-style-type: none"> Codex's GSFA will be considered in the current amendment exercise. If "Substances not considered as preservatives or antioxidants" are used as additives, they are required to be labelled according to the requirements of the Food and Drugs (Composition & Labelling) Regulations. These substances are not considered to be preservatives or antioxidants under Preservatives in Food Regulations. Their uses are not controlled by the Regulations and these substances are generally permitted for use in food under good manufacturing practice condition. However, their technical function (including functioning as antioxidant) should be clearly labelled as required by the Food and Drugs (Composition & Labelling) Regulations.
(16)	One submission from the trade	<ul style="list-style-type: none"> Agree with the proposals set out under 6.3 in the Consultation Paper. 	<ul style="list-style-type: none"> To organize technical meetings with the trade as soon as possible and to invite them to join the meeting. 	<ul style="list-style-type: none"> Two technical meetings had been organised on 12 April and 20 June 2007.

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(17)	One submission from the trade	---	<ul style="list-style-type: none"> Fully agree to amalgamate the preservative, Dimethyl Dicarbonate in the Regulations. 	<ul style="list-style-type: none"> Dimethyl Dicarbonate will be added under the proposed amendment.
(18)	Manager (Acting), International Food Standards, Australian Government Department of Agriculture Fisheries and Forestry, Canberra, Australia	<ul style="list-style-type: none"> Welcomes the approach taken by HK to harmonising food additive standards in line with Codex. 	<ul style="list-style-type: none"> To seek clarification on the regulatory status of substances listed in Annex 4 of the Consultation Paper. To seek clarification on a range of substances listed as permitted additives in the primary relevant Codex Standard, the General Standard for Food Additives, which appear not be permitted under the proposal. 	<ul style="list-style-type: none"> These substances are not considered to be preservatives or antioxidants under Preservatives in Food Regulations. Their uses are not controlled by the Regulations and these substances are generally permitted for use in food under Good Manufacturing Practice condition. However, their technical function (including functioning as antioxidant) should be clearly labelled as required by the Food and Drugs (Composition & Labelling) Regulations. The current amendment deals with the Preservatives in Food Regulations and only preservatives and antioxidants in the GSFA will be considered in the current proposed amendment.
(19)	New Zealand Consulate General	<ul style="list-style-type: none"> Please to see that the proposals are to follow Codex guidelines and general international trends. 	---	---
(20)	Department of Health	<ul style="list-style-type: none"> Support, in principle, the initiative to keep the local food legislation abreast of international development and practices. 	---	---
(21)	State Food and Drug Administration	<ul style="list-style-type: none"> Support the proposals set out in the Consultation Paper 	---	---

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(22)	Consumer Council	<ul style="list-style-type: none"> Support the proposed amendments in principle 	<ul style="list-style-type: none"> To see the amendments in force as soon as possible. To consider the food types that are specific to the local community and to local consumption pattern when setting limits. To take steps to guard against the abuse of additives to mask colour changes of fresh produces. To set the limit of additives in such a way that an average Hong Kong consumer would not take in an excessive amount of any additive from a typical combination of food or food types. To define food sub-types very clearly and as fine as possible and set the permitted levels of additives with reference to consumption pattern of different sub-types. 	<ul style="list-style-type: none"> Suggestion noted. Local food items in the Preservatives in Food Regulations will be included in the amendment to accommodate local needs. Suggestion noted. Suggestion noted. Suggestion noted.
(23)	Ms. Stephanie SHUM	<ul style="list-style-type: none"> Agrees with the proposal. 	<ul style="list-style-type: none"> To define chemicals which are extracted from natural ingredients and are used as preservatives and antioxidants in the proposed amendments. To group together all food additives under one Regulation. To review the proposed allowance levels whenever there are differences between preservative allowances of Codex, GB and the Regulation. To build up the correct concepts of food additives. To simplify the labeling in a more friendly way for both the manufacturers and the consumers. To set the standards according to the food consumption studies. 	<ul style="list-style-type: none"> Follow Codex's definition on the identity of preservatives and antioxidants, regardless whether natural or not. Suggestion noted. These issues will be examined with the trade over technical meetings. Suggestion noted. Suggestion noted. Suggestion noted.

Submission No.	Name / Company	General Comments / Views sought under 6.3 (a), (b), (c) & (d) in the Consultation Paper	Other Comments and Suggestions	Response to Comments
(24)	One submission from the public	<ul style="list-style-type: none"> Agrees with the proposal. 	<ul style="list-style-type: none"> To suggest combining the current preservative standard with Codex standard since some preservatives are permitted to use in HK but not permitted in Codex. To suggest 36 months grace period for aligning the HK standard to Codex standard for certain preservative. To update HK standard wherever Codex standard is update and grace period provided to food companies. To make reference to Chinese standards together with Codex standards in the amendment. 	<ul style="list-style-type: none"> That will be done as already stated in the consultation document. Transition period will be given and the trade will be consulted for the length of the transition period. Suggestion noted. Current proposal will only consider preservative /antioxidant standards in GSFA.
(25)	Mr. Fergus LANG	<ul style="list-style-type: none"> Agrees with the proposal. 	---	---