

Food and Environmental Hygiene Department

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Minutes of the 9th Technical Meeting with Trade on the Labelling Scheme on Nutrition Information (Part II) held on 7 May 2008 at 2:30 PM in Conference Hall, 3rd Floor, Edinburgh Place, Central

PRESENT:

Government Representatives

Dr HO Yuk-yin	Consultant (Community Medicine), FEHD	(Chairman)
Dr Anna WONG	Senior Medical Officer (Risk Communication), FEHD	
Dr Stephen CHUNG	Senior Chemist (Food Research Laboratory), FEHD	
Mr LEUNG Sui-sum	Superintendent (Risk Assessment), FEHD	
Mr CHUNG Kwok-wah	Chief Health Inspector (Food Labelling), FEHD	
Ms Joey KWOK	Scientific Officer (Technical Publication), FEHD	
Ms Melissa LIU	Scientific Officer (Nutrition), FEHD	
Dr Iona SHAM	Administrative Officer, FEHD	(Note-taker)

Trade Representatives

Mr Peter JOHNSTON	A S Watson Industries
Ms Lina LIM	A S Watson Industries
Mr Philip SHULL	Agricultural Trade Office, American Consulate General HK
Ms Caroline YUEN	Agricultural Trade Office, American Consulate General HK
Ms WONG Wing-yee	AMOY Food Ltd.
Ms Shirley YEUNG	AMOY Food Ltd.
Mr Alan KWOK	Campbell Soup Asia Ltd.
Ms Fiona LAM	Chewy International Foods Ltd.
Mr Alex TSOI	Chewy International Foods Ltd.
Mr PAK Siu Wa	China Inspection Co., Ltd.
Ms LO Yi Wah	China Resources Vanguard (HK) Co., Ltd.
Ms Virginia LEE	Circle K Convenience Stores (HK) Ltd.
Mr Dennis CHAN	City Super Limited
Ms Grace YEE	City Super Limited
Ms Evelyn TANG	Classic Fine Foods (HK) Ltd.
Ms Nikki TO	Classic Fine Foods (HK) Ltd.
Ms May KAN	Coca-Cola China Ltd.
Mr Charles IP	Dah Chong Hong, Ltd.

Mr Victor LEE	Dah Chong Hong, Ltd.
Ms Cora CHAN	Dahfa Fish Snack
Ms Charlotte CHAN	Fonterra Brands (HK) Ltd.
Ms Debby LAW	Fonterra Brands (HK) Ltd.
Mr Conrad LAM	Four Seas Mercantile Ltd.
Ms Coffee LEUNG	Friesland Foods Hong Kong
Ms Jackie LIU	GlaxoSmithKline Ltd.
Ms LING Pui Yee, Carol	Golden Resources Development International Ltd.
Ms Athena LI	Greendotdot.com Ltd.
Mr Frank PAK	Home of Swallows Ltd.
Mr Johnny LO	Hong Kong Suppliers Assoc. Ltd.
Mr Albert TANG	Hong Kong Suppliers Assoc. Ltd.
Mr Junichiro IKUDOME	Hong Kong Yakult Co., Ltd.
Mr Gary LO	Hong Kong Yakult Co., Ltd.
Mr NG Yat Ming	Hong Kong Yakult Co., Ltd.
Mr LEUNG Yiu Hung	Hong Kong Yamazaki Baking Co. Ltd.
Mr CHAN Chi Ming	Hop Hing Oil Factory Ltd.
Ms NOU Ka Ming, Carmen	IDS (HK) Ltd.
Mr NG Pui Kay	Kee Wah Bakery
Ms Jessica CHUI	Kjeldsens & Co. (HK) Ltd.
Ms Athena LEUNG	Kjeldsens & Co. (HK) Ltd.
Mr Vincent YIP	Koon Wah Food & Preserved Fruit Fty. Ltd.
Mr LAU Kin-wah	Kowloon Chamber of Commerce
Mr LEE Kwong Lam	Kowloon Chamber of Commerce
Ms Shelley YUEN	Lam Soon Oils & Fats Ltd.
Mr Stephen CHOI	Lee Kum Kee International Holdings
Ms NG Sin-yan, Kate	Lucullus Food and Wines Co., Ltd.
Ms Daisy CHAN	Mamee Noodle
Ms Becky LAU	Mars Foods Inc.
Ms CHAN Yuen-han	Maxims Caterers Ltd.
Ms TENG Wan ping	Maxims Caterers Ltd.
Mr Philip KWAN	Mead Johnson
Mr SO Man-lam, Jacky	Mengniu Milk Industry (H.K.) Ltd.
Ms LAW Sin Ki	Multizen Asia Limited
Ms LEUNG Wing Sze	Multizen Asia Limited
Ms Doris CHAN	Nestle Hong Kong Ltd.
Ms Eleanor CHAN	Nestle Hong Kong Ltd.
Mr Joseph MA	Nestle Hong Kong Ltd.
Mr HUI Yiu Kai	Nissin Foods Co., Ltd.

Ms CHEUNG Chung Man	Pappagallo Pacific Ltd.
Ms LAI Sin Man	ParknShop
Mr CHAN Wing	Pat Chun International Limited
Ms LAW Suk Kwan	Saison Food Service Ltd.
Mr TANG Kwok Fai	San Miguel Brewery HK Ltd.
Mr Wellock LO	Sims Trading Co., Ltd.
Mr WONG Kam-chuen	Swire Coca-Cola HK Ltd.
Mr Lewis I S LING	Taikoo Sugar Limited
Ms YEUNG Tsz Lai, Erin	Tai Pan Bread & Cake Co., Ltd.
Ms HO Yuk-sim	The Association For Hong Kong Catering Services Management, Ltd.
Mr Leo YUEN	The Association For Hong Kong Catering Services Management, Ltd.
Mr Allen HO	The Dairy Farm Group
Mr Paul LEUNG	The Direct Selling Association of Hong Kong
Mr Samuel CHAN	The Garden Co., Ltd.
Mr Ronald LAU	The Hong Kong Food Council Ltd.
Mr LEUNG Ho-wing	The Hong Kong Health Food Association
Mr Perry SIT	The Hong Kong Health Food Association
Ms Frenda WONG	The Kowloon Diary Ltd.
Ms Pauly CHUNG	The Wing On Department Stores (HK) Ltd.
Mr LI Sai Cheong	The Wing On Department Stores (HK) Ltd.
Ms OR Chor Kuen Judy	The Wing On Department Stores (HK) Ltd.
Mr CHAN Chi kong	Vitasoy International Holdings Ltd.
Mr Clement CHAN	Wing Sang Cheong Ltd.
Ms Joyce LEUNG	Wing Wah Food Manufactory Limited
Ms SHUM Hau Lee	Wing Wah Food Manufactory Limited
Mr CHAN Wai Lun	Winner Food Products Ltd.
Ms Samantha CHOY	Wyeth (H.K.) Limited
Ms Michelle SIN	Wyeth (H.K.) Limited
Ms Amelia YEUNG	YHS Hong Kong (2000) Pte Ltd.

Welcoming Remarks

The Chairman opened the meeting by welcoming the trade representatives. He thanked the trade representatives for their valuable advice in previous meetings. Over 30 technical meetings had been organized since 2004. In response to the trade's opinions and requests, a number of new features had been introduced. He summarised the flexibilities introduced into the nutrition labelling scheme:

- ♦ The content of the core nutrients could be labelled in per 100 g / mL or per serving formats.

- ♦ Content of non-core nutrients in % Nutrient Reference Value (NRV) could be shown.
- ♦ The amount of carbohydrate could be expressed as total carbohydrate, in addition to available carbohydrate, as long as the amount of dietary fibre was provided.
- ♦ Labelling of energy could be in the unit of kilocalorie or kilojoule.
- ♦ Information based on NRVs of other jurisdictions had been allowed, although the conditions for nutrition claims were still based on Chinese NRVs.
- ♦ Apart from the claims adopted by Codex, four non-Codex claims, namely low sugar, low protein, high dietary fibre and trans fat free, had been added. The conditions for these claims were set by taking reference to the standards of Mainland and other jurisdictions.
- ♦ Factual statements declaring the actual content of a nutrient, such as “xx g omega-3 per 100g” and ‘yy g omega-6 per serving”, had been allowed.
- ♦ Products with annual sales of fewer than 30 000 units were eligible for the small volume exemption, if there was no nutrition claim on the products.

The trade was welcome to make further suggestions and the Administration was prepared to adopt them if they were justifiable and feasible, without compromising the objectives of the labelling scheme.

Agenda Item 5

Any Other Business

2. Ms M LIU briefed the participants on information relating to some enquiries of the trade:

- ♦ Foods that were semi-solid or mixtures of solid and liquid were regulated using the conditions for solid, but individual cases would be reviewed on a case by case basis.
- ♦ Information of core-nutrients could be provided in the form as sold, or as consumed upon reconstitution according to instructions on the package, provided that the instructions for preparation were clearly shown on the package. The claim conditions should refer to the form as consumed.
- ♦ The mere mention of a nutrient on a product might be considered a nutrition claim, depending on circumstances including the presentation and implication of the mention.
- ♦ “ With electrolyte” was not considered a nutrition claim, but “contains amino acid” was regarded as a nutrient content claim.
- ♦ Nutrition claims that were not in Chinese or English would be regulated under

the Scheme.

- ♦ Terms “NRV”, “DV”, “DI” could be used as appropriate, depending on the source of the reference value.

[Post meeting note: In the nutrition label, nutrient information of core nutrients should be provided in the form of food as sold. In addition, the food can also be labelled in the form as consumed if it specifies as such and provides clear instruction for preparation on the package. For nutrition claims, the claim conditions refer to the form as sold. However, for products like milk powder that have to be reconstituted before consumption, conditions for nutrient content claims are applicable to its status after reconstitution, if specified, following instructions provided on the package. The preparation instructions should be clearly stated.]

3. Trade representatives raised several questions and commented on the Amendment Regulation.

Requirements of Labelling

4. Several trade representatives asked whether a US product with 0 g trans fat in the nutrition label but no nutrition claim on trans fat would need to be re-tested in Hong Kong. The Chairman clarified that it would depend on the actual amount of trans fat in the product, and conversion might be required as the conditions in US and Hong Kong were different. If the product satisfied the local condition, there was no need to re-label. The Chairman pointed out that if there was initially a nutrition label, the manufacturers or importers should have conducted some testing and nutrition information should be available. He reminded the meeting that it was the responsibility of the trade to ensure that the information provided on the products was truthful, accurate and satisfied the local requirements. He also elucidated that the rounding rules only applied to content of the core-nutrients but not the claimed nutrients. *[Post-meeting note: Products eligible for small volume exemption are allowed to adopt rounding rules of overseas jurisdictions in the nutrition label, since the information on the content of nutrients is voluntary.]*

5. A trade representative sought confirmation that the content of vitamins and minerals could be shown as % NRV if they were not claimed nutrients. Another trade representative asked if it was acceptable to have the products manufactured in one country but the %DV or %NRV used was of a different country. The Chairman confirmed that these were acceptable, and were the flexibilities adopted in the current scheme.

6. A trade representative enquired whether the mere mention or a factual statement of soy protein and oat protein was allowed, and about the conditions if these were considered nutrition claims. The Chairman replied that for a statement such as “contains soy/oat protein”, the nutrient content claim condition of “contains protein” had to be satisfied. A factual statement stating the actual content of soy/oat protein was acceptable, whereas whether the mere mention of soy/oat protein would be considered a nutrition claim depended on the overall presentation.

7. A trade representative questioned whether the claim condition of “source” or “high” had to be satisfied if “Vitamin C” was shown on the product. The Chairman emphasised that whether the mere mention of a nutrient would be considered a claim depended on the presentation. If it was regarded as a nutrition claim, the less stringent relevant condition for nutrient content claims (Annex III on pg 41 of the Technical Guidance Notes) would apply in general. A trade representative commented that it was confusing that the mere mention of a nutrient on the product might or might not be considered a claim. The Chairman explained that it had to be considered case by case. He encouraged the trade to state the actual content of a nutrient in a factual statement rather than just mention a nutrient on the package.

8. Another trade representative asked if “content of trans fat less than xx g” was considered a factual statement. The Chairman clarified that only statements giving the exact amount of nutrients were acceptable. He illustrated that factual statements could be provided even for nutrients on which nutrition claims were not allowed (e.g. omega-3).

9. Several trade representatives questioned whether a product was considered to have nutrient content claims if “no cholesterol” or “no sugar added” was part of the trademark, or if the product name was “high calcium biscuits”. The Chairman explained that these cases were not regarded as nutrition claims, but urged the trade not to abuse these exceptions. Dr A WONG added that although these cases were not regarded as nutrition claims, the conditions for name and designation under the existing laws would have to be fulfilled.

10. A trade representative queried if it was acceptable for a product with a zero trans fat claim to have 0.2 g trans fat on the nutrition label. The Chairman replied that the case was not acceptable even though the rounding rule was satisfied, since there could not be contradicting information on a product. That was also confirmed by Mr K W CHUNG. The Chairman pointed out that it was acceptable, on the other hand, to have 0.2 g trans fat on the nutrition label if the claim was “trans fat free”, provided that

the other conditions for “trans fat free” were satisfied.

11. A trade representative asked if there was any requirement on whether the English or Chinese nutrition information should be stated first, and if the words in the nutrition panel could be in different colours. The Chairman answered that there was no such requirement in the Amendment Regulation, and the recommendations were included in the Guidance Notes.

12. A trade representative enquired if it was allowed to give the nutrition information for a liquid in the per 100 g format. Mr K W CHUNG and Dr A WONG responded that there was no stipulation on whether information of a liquid should be provided with respect to volume or weight. Another trade representative commented that information of ice-cream and sherbet was commonly given in mL. The Chairman remarked that enforcement of the claim conditions would take into consideration the state (solid, liquid, semi-solid or mixture of solid and liquid) of the product as sold, regardless of the product information given in g or mL.

13. A trade representative wondered if “as much iron as an apple” was considered a nutrition claim, and if the iron content of an apple had to be shown along. He sought details on the “description of food”, as stated in para. 39 on pg 17 of the Technical Guidance Notes, required for making a nutrient comparative claim. Ms M LIU and the Chairman clarified that for a nutrient comparative claim, the nature of the food being compared had to be similar, the comparison had to be reasonable and factual, and there had to be enough information for the consumer to know clearly what were being compared. If the products being compared were of different nature, the claims would be reviewed on a case by case basis.

14. A trade representative asked whether “contain xx” was an acceptable claim if nutrient xx had no Chinese NRV (e.g. DHA), and whether it was allowed to state the “advantages of xx”. The Chairman replied that while a claim of “contain xx” had to meet the conditions for “source of xx”, the nutrient xx had to have the relevant condition for nutrient content claim stipulated in the Amendment Regulation for such a claim to be allowed. For nutrient function claims, the four conditions stated in para. 41 on pg 20 of the Technical Guidance Notes had to be satisfied. In particular, nutrient function claims could only be made on nutrients with Chinese NRVs or conditions for making nutrient content claims. Therefore, claims such as “contain DHA” and stating the “advantages of DHA” were not allowed.

15. A trade representative asked if it was acceptable to state 0 g trans fat per

serving in the nutrition label for a US product containing 0.4 g trans fat per 100 g, if each serving was 50 g. The Chairman emphasised that upon recalculation, the label had to satisfy the local requirements. Therefore, it was unacceptable to state 0 g trans fat per serving in the case. Dr A WONG added that the US condition could not apply to the case. She said that reference was made to the World Health Organization's recommendation on daily trans fat intake. She explained that there was no standard for serving size in Hong Kong. The trans fat intake could be very high if the serving size was small. The trade representative pointed out that the US rounding rule for trans fat could be more lax or more stringent than the local requirement, depending on the serving size.

16. A trade representative queried if each individual product within a package had to be labelled, and commented that manufacturers could not stop retailers from selling the products within the package individually. The Chairman stated that only the selling unit had to be labelled, and if any exemption would apply, it would be based on the selling unit. Mr K W CHUNG reminded the trade that it was both the manufacturers' and the retailers' responsibility to ensure compliance of the Amendment Regulation.

17. A trade representative opined that the local trans fat condition was difficult to comply, since the products came from different countries around the world. She also said that the surface area of a product was hard to define, and that it was difficult to affix a nutrition label on small products even of which the surface area was larger than 100 cm². The Chairman indicated that the Government understood the difficulties of the trade, especially that relating to labelling of trans fat, and would consider introducing flexibilities during enforcement of the Amendment Regulation. He pointed out that in cases where there was different packaging for the same product for sale in different countries, the trade could choose the packaging applicable to Hong Kong.

18. A trade representative wondered if it was acceptable to state that a product was "65% fat free". Dr A WONG replied that "x% fat free" was an allowed nutrient content claim, but the claim had to meet the low fat condition, which was 3 g per 100 g for solid and 1.5 g per 100 mL for liquid. Thus, a "97% fat free" claim on a solid or a "98.5% fat free" claim on a liquid was allowed, but a "65% fat free" claim was not acceptable. The Chairman supplemented that a "xx% fat free" claim led consumers to think that the food was healthy, and therefore it was not acceptable to have such a claim on food that was not healthy.

19. A trade representative queried if it was illegal for a(n) importer/distributor/retailer to mark or put a label on the existing package. Mr K W CHUNG replied that it was legally in order to mark on the package or re-label a product with the consent of the manufacturer. The Chairman added that the manufacturer might be willing to give consent for re-labelling in order to sell the product in Hong Kong. [*Post-meeting note:* Legal advice indicates that affixing exemption stickers on products by vendors does not need the consent of the relevant importers or manufacturers, unless there is an agreement between the vendor and the relevant importer or manufacturer to the contrary. However, if the affixing of such stickers amounts to alteration, removal or obliteration of the labelling of the product, such acts would be an offence.]

20. Several trade representatives asked if there was any requirement on how to cover up a claim that did not meet the local conditions, and where on the product should the nutrition label be shown. The Chairman clarified that there were no such requirements in the Amendment Regulation.

21. A trade representative opined that it was difficult to find information on which countries required mandatory labelling of trans fat. The Chairman gave some examples of countries requiring mandatory labelling of trans fat. These countries included Uruguay, Paraguay, Brazil, Argentina and Israel.

22. Several trade representatives pointed out that the US Scheme accepted a simplified format of nutrition labelling under certain conditions, and allowed the content of specific nutrients, e.g. dietary fibre, to be shown as “not a significant source of [nutrient xx]”. They suggested that the statement “not a significant source of dietary fibre” be regarded as having 0 g dietary fibre when the carbohydrate content was given as total carbohydrate. The Chairman responded that the Government would consider accepting a simplified format of nutrition label as it was included in the original proposal in 2005.

23. A trade representative enquired if a statement regarding nutrients with the word “equal” would be considered a nutrient comparative claim, and whether such a statement was regulated if it appeared only in the advertisement. The Chairman replied that whether such a statement would be regarded as a nutrient comparative claim required consideration on a case by case basis. He reminded the meeting that advertisements were also controlled under the Amendment Regulation.

24. A trade representative sought details on the tolerance limit for factual

statements stating the actual content of a nutrient. Ms M LIU pointed out that factual statements were not considered nutrition claims. She opined that deviation in such a case was related to quality control of the products.

25. Noting that claims of “low energy” and “energy free” were allowed, several trade representatives enquired if “high energy” was also an allowed claim. The Chairman responded that currently “high energy” was not an allowed claim. However, if a claim became accepted internationally, and scientific evidence could be provided to back up the claim, the Government would consider adopting such a claim.

26. A trade representative queried if the number of servings in a package was required to be a whole number. The Chairman said that there was no such requirement. Ms M LIU elaborated that nutrition labelling could be based on a serving, as long as the number of servings in each package was stated.

Testing

27. Several trade representatives questioned about the maximum capacity for the three HOKLAS accredited commercial laboratories in Hong Kong. One of the trade representatives also sought clarification on whether there was only one method for the analysis of total fats. Dr S CHUNG said that there were no relevant data available on the capacity of testing by commercial laboratories, but the capacity might also depend on market demand. He clarified that there were more than four HOKLAS accredited laboratories in Hong Kong which joined the previous round of interlaboratory comparison exercises and provided similar results on trans fat. For the analysis of total fat, even though the laboratories were free to choose the method for testing, the difference of the results from different laboratories was less than 5%. Dr CHUNG elucidated that different AOAC methods should be used for testing of total fat in different foods, and the laboratory should be able to supply information on or suggest the appropriate testing method. The Chairman supplemented that deviation in testing results was less commonly seen for the analysis of fatty acids than dietary fibre. He assured the trade representatives that flexibilities had been provided in the Amendment Regulation for deviations resulted from testing.

28. A trade representative mentioned that overseas jurisdictions reviewed cases individually if there was deviation beyond the tolerance limit resulting from different testing methods. The Chairman mentioned that in cases of non-compliance, in general, a warning would first be given to the trade. The trade would only be prosecuted if they ignored the warning. On the other hand, the enforcement would be

stricter if the non-compliance was related to a nutrition claim. Mr K W CHUNG added that the enforcement would depend on the violation and the individual case. The trade was welcome to voice out if they had difficulties. The Chairman further supplemented that the enforcement was one-way in cases where there was no nutrition claim, as stated in Table 3 on pg 13 of the Technical Guidance Notes.

29. A trade representative enquired if it was acceptable to have the testing conducted in Mainland if the products were imported from Mainland. The Chairman said that the testing could be conducted anywhere, and pointed out that the content of nutrients could also be calculated using indirect analysis. He said that the HOKLAS accreditation simply showed that those laboratories in Hong Kong were up to the standard. Dr S CHUNG supplemented that there was an accreditation body in Mainland called CNAL, and many laboratories in Mainland had obtained the accreditation from CNAL. [*Post-meeting note: China National Accreditation Board for Laboratories (CNAL) merged with China National Accreditation Board for Certifiers and became China National Accreditation Service for Conformity Assessment in 2006.*]

Small Volume Exemption

30. A trade representative expressed that the small volume exemption scheme should provide more flexibilities. He enquired about how other overseas countries, such as Taiwan, dealt with zero trans fat claims since there were only a small number of jurisdictions with a definition of zero trans fat. The Chairman and Ms M LIU replied that Taiwan had the same definition of zero trans fat as Hong Kong, but did not allow zero trans fat claims. Malaysia's zero trans fat definition of less than 0.1 g per 100 g applied only to certain foods. Singapore required the actual amount of trans fat to be labelled, even though a zero trans fat claim was allowed when the content was 0.5 g per 100 g. The US definition was 0.5 g per serving while the Canadian definition was 0.2 g per serving. The Chairman supplemented that the rounding rules suggested in the Technical Guidance Notes were similar to those of overseas countries. He pointed out that the local scheme used 100 g as the base unit while the US Scheme used serving, and that rendered the conditions very different due to the variation in serving sizes for different foods.

31. Several trade representatives suggested accepting more general definitions for the zero content of nutrients in products included in the small volume exemption, since the conditions in different countries were different. The Chairman said that the Administration understood the trade's difficulties and would take that into

consideration. He pointed out that not all imported products stating “trans fat – 0 g” in the nutrition panel would fail to meet the local requirement, and that depended on the actual content of trans fat in the products. He reminded the meeting that the “trans fat free” claim was initially not allowed but then accepted on requests of the trade, and it was still not allowed in the US. The Chairman said that the rounding rules of the local scheme were more or less the same as other countries, especially that on trans fat which was similar to other jurisdictions in the region. He also explained that a rounding rule for trans fat exceeding 0.3 g per 100 g might lead to a daily intake of trans fat exceeding the recommendation of World Health Organization.

Grace period

32. A trade representative commented that the two-year grace period was too short.

Others

33. A trade representative commented that there might be a more than 20% difference in the content of claimed nutrients across different batches of products as introduced by the ingredients. The Chairman suggested labelling the average number if there was a difference across different batches, and considering not making the claim if the difference was large. He reminded the trade representatives that the conditions for claims were often only one-way. When there was doubt about their quality assurance, the trade should consider claiming the less stringent condition (such as “low sodium” instead of “very low sodium”) in these cases.

34. A trade representative said that it might be misleading to say that the healthy foods would disappear upon passing of the law. He explained that, among foods generally regarded as unhealthy, there were some that were healthier than the others. For example, despite French fries were generally regarded as unhealthy food, fries with less salt were healthier than other fries. Margarine with less trans fat was also healthier than the regular margarine products.

35. Several trade representatives enquired if casein and lactose were considered nutrients under the Amendment Regulation. The Chairman and Ms M LIU clarified that substances such as gluten, lactose and casein were controlled under the regulations for allergens, and these substances were usually included in the label to warn consumers with food intolerance. Hence, these substances were exempted from the Amendment Regulation, and “gluten free”, “lactose free” and “casein free” were not

considered nutrition claims. Dr A WONG supplemented that lactose was considered milk and milk products in the laws.

36. A trade representative enquired about the definition of nutrients. He asked if lycopene and amino acid were considered nutrients, and if claims on these substances could be made. The Chairman pointed out that the definition of nutrients was stipulated in the Amendment Regulation, and stated as point 1 on pg 4 of the Technical Guidance Notes (English version) to be substances in the categories of protein, carbohydrates, fat, dietary fibre, vitamins and minerals. Individual cases would be considered on a case by case basis.

37. A trade representative asked if oyster sauce and microwavable food were considered solid or liquid. Dr A WONG replied that oyster sauce would be considered semi-solid and regulated as solid. If the microwavable food was a mixture of solid and liquid, it would be also be regulated as solid. The Chairman supplemented that the control would be judged case by case. Other trade representatives pointed out that the state of some products, such as condensed milk, as sold might not be the same as that as consumed, and sought further clarification. The Chairman and Dr A WONG clarified that the content of nutrients in the nutrition label could be controlled “as sold”, or “as consumed” when instructions for reconstitution were provided. Nutrition claims were regulated at the “as consumed” state for products requiring reconstitution before consumption. A trade representative pointed out that cocoa powder and coffee powder could also be consumed directly, for example, be used to bake cakes. The Chairman said that these cases would be judged individually. [*Post meeting note: In the nutrition label, nutrient information of core nutrients should be provided in the form of food as sold. In addition, the food can also be labelled in the form as consumed if it specifies as such and provides clear instruction for preparation on the package. For nutrition claims, the claim conditions refer to the form as sold. However, for products like milk powder that have to be reconstituted before consumption, conditions for nutrient content claims are applicable to its status after reconstitution, if specified, following instructions provided on the package. The preparation instructions should be clearly stated.*]

38. A trade representative sought details on the exemption for foods for special dietary uses, and asked if a product for “below 36 months” or “1 year old or above” was exempted. She also wondered if a product for the elderly with calcium added would be exempted. Ms M LIU clarified that foods for special dietary uses were those formulated for people with a particular physical condition or disease, or infants/children below 36 months. She said that Codex had a definition for foods for

special dietary uses, and it would be referenced to and included in the Technical Guidance notes. The Chairman added that for those products for special dietary use, not covered by the new requirements, would need to serve a specific target population. Therefore, the product for “below 36 months” would not be covered while that for “1 year old or above” was likely not. Mr K W CHUNG supplemented that individual cases would be considered separately. In agreement, the Chairman said that the calcium added product for the elderly might not fall outside the scope of the regulation, unless the product was not suitable for other people except the elderly.

39. A trade representative pointed out that the Dried Milk Regulations stipulated the fat content requirement of different kinds of milk, and asked if it was in conflict with the Amendment Regulation. Mr K W CHUNG said that under the Dried Milk Regulations, there were different compositional standards for dried full cream milk, dried partly skimmed milk and dried skimmed milk, e.g. dried skimmed milk should contain less than 1.5% milk fat. The Chairman clarified that there was no conflict between the two regulations, and stressed that the conditions in the Amendment Regulation had to be met when a nutrition claim was made. Ms M LIU further pointed out that skimmed milk was not regarded as low fat milk. Dr A WONG directed the meeting to refer to para. 37 on pg 16 of the Technical Guidance Notes, which stated that “the term ‘skim/skimmed’ and ‘semi-skim/semi-skimmed’ should not be treated as nutrition claims or their synonyms, as there were legal compositional standards of skimmed milk and semi-skimmed milk under the current food labelling regulations.” She added that nutrition claims on dried milk were regulated according to conditions of the “as consumed” state.

40. A trade representative suggested conducting a regulatory impact assessment on the current scheme on nutrition labelling.

41. One trade representative stated that the trade found that nutrition labelling requirements published in the recent gazette were totally not acceptable.

42. The Chairman told the meeting that dieticians had raised concern about claims such as “less sweet”, “less salty” and “less oily”. He invited the trade representatives’ comment in the cases that these claims were regulated as “low sugar”, “low salt” and “low fat”, respectively. Ms M LIU pointed out that “less” was a synonym for “low” as stated on pg 4 of the Chinese version of the Technical Guidance note, and therefore “less sweet” could not be regarded as a nutrient comparative claim. In general, the trade representatives did not welcome control of these claims regarding sensation. Several trade representatives opined that the lack of definition for “sweet” might pose a

problem, and that a “less sweet” product might not necessarily satisfy a “low sugar” condition. Meanwhile, the Chairman pointed out that the “sweet” taste might also be due to sweeteners rather than sugar.

43. The Chairman told the meeting that the proposed Amendment Regulation was being examined by the Legislative Council until 28 May. After 28 May, the final drafts of the Technical Guidance Notes and the Method Guidance Notes would be issued and posted on the website of the Centre for Food Safety. The Chairman encouraged the trade to submit comments on the final drafts of the Guidance Notes as soon as possible. There would be two weeks for collection of comments on the final drafts before the official Guidance Notes were issued, approximately one month after passing of the Amendment Regulation. A workshop would then be held in early September to help members of the trade to implement the Labelling Scheme.

44. The Chairman thanked all participants for their suggestions and comments. There being no further business, the meeting was adjourned at 6:20 PM.