

Minutes of the Stakeholders Consultation Meeting conducted at Mumbai to seek the views of Draft Food Safety & Standards (Import) Regulations

Meeting Date	14 TH July 2011	Venue	Trident Hotel, Nariman Point, Mumbai
Agenda	<ul style="list-style-type: none"> ▪ To seek views on <u>Draft Food Safety & Standards (Import) Regulations</u> from different stakeholders 		
Attendees	<ul style="list-style-type: none"> ▪ As per Annexure-I 		
Welcome Address	<ul style="list-style-type: none"> ▪ Sri VN Gaur, CEO, FSSAI welcomed the participants and informed that FSSAI has come out with first Draft Food Safety & Standards (Import) Regulations after internal consultations. He informed that before giving final shape to it, FSSAI would like to seek inputs from different external stakeholders. The proceedings started after observing one minute silence to pay homage to those who lost their lives in the Mumbai blast on 13th July 2011. He informed that all sections of FSS Act were notified in last year July, Rules were notified on 05th May 2011 and Regulations would be notified within a few days. All section of FSS Act will be effective from 05th August 2011 and will repeal all the acts and orders which gets amalgamated in FSSAI Act. He informed that the draft regulations on food imports have been circulated to different stakeholders and posted on the FSSAI web site. FSSAI has already received detailed feedback from some stakeholders. The participants were requested to provide inputs and help FSSAI to finalize the regulations. ▪ A quick introduction by NISG Team –It highlighted the steps taken by FSSAI to operationalize the clearance process at seaports, airports and 		

	<p><i>ICDs in important locations in Calcutta, Haldia, Mumbai, Delhi and Chennai and the clearance process adopted by the A.Os.</i></p> <ul style="list-style-type: none"> ▪ <i>Presentation of the salient features of Draft Food Import Guidelines by Legal Consultant of NISG in four sessions followed by open house discussions at the end of each session.</i> <p><i>The queries raised by participants and responses by FSSAI are documented in the Annexure II:</i></p>
<p><i>Vote of Thanks</i></p>	<p><i>CEO thanked every participant and said that the inputs provided by the stakeholders would be very helpful in finalizing the regulations. He advised the participants to send the queries raised during the workshop and additional feedback in writing to the FSSAI. The proposed regulations would go through approval process of food authority and finally would be sent to the Government. Thereafter, the draft shall be notified through a Gazette and the stake holders would be given one more opportunity to furnish their feedback before the final notification. He informed that FSSAI would keep in view the inputs of Importers, consumers & regulator and all other stakeholders. CEO further informed that the On-line “Food Import Clearance System” was working well in Delhi/ Chennai under pilot mode and FSSAI would soon launch the online I.T system in Mumbai also, which would provide hassle free and speedier services to the stakeholders.</i></p>

Annexure – I

List of participant for the Stakeholders Consultation Meeting held at Mumbai on 14th July 2011

Annexure –II

The feedback/ queries received from participants and responses by FSSAI

<u>Session I – Chapters</u>			
<u>S.No</u>	<u>Clause</u>	<u>Feedback</u>	<u>Clarification by FSSAI</u>
<u>I</u>	<u>Draft Regulations</u>	<u>Draft Regulations(Pankaj Shah CHA Association, Mumbai)</u> <i>Mr. Shah elaborated that he was not aware of any draft regulations and has not received any such document from FSSAI. It was suggested that Review officer, infrastructure and procedures are to be clearly spelt.</i>	<i>It was clarified that the letter forwarded to the participants clearly mentions about the website where draft regulations are available. Review procedure is clearly spelt in Chapter 14</i>

<p><u>2</u></p>	<p><u>Clause no. 4- (a) Knowledge / Experience of Authorized Officer(Dr.Chadha)</u></p>	<p><u>(a) Knowledge / Experience of Authorized Officer (Dr Chadha)</u> - It was suggested that the food being a sensitive item, the AO should be more knowledgeable/ experienced and there is a need to stipulate high educational qualifications to justify their role. It was suggested to prescribe qualifications and experience for lab analysts.</p> <p>(b) Allow four samples in the case of domestic regulations</p> <p>(c) Approach shall be to avoid destruction of food and wherever possible the importer shall be given opportunity to reprocess and re-label to fulfill Indian rules. The labeling regulations shall be in alignment with the Weights and Measures Act, 1976 and Legal Metrology Act, 2009.</p>	<p>(a) It was clarified that the Authorised Officer shall have the same qualification as Food Safety Officer as defined in rules and the qualifications of lab analyst were already stipulated in the Rules.</p> <p>(b) Four samples are not required in case of imported food items because prosecution/ penalty is not to be launched against the importer in case the imported food item does not comply with the requirements given under PFA Act, 1954 and rules thereof, as against the provisions for domestic market. Also, there are already objections from the importers on collecting two samples for expensive food items like wine, color, flavors etc.</p> <p>(c) Regulations have provision for rectifiable defects.</p>
<p><u>3</u></p>	<p><u>Clause no. 16- Risk Categorization of Food Imports</u></p>	<p><u>Risk Categorization of Food Imports</u></p> <p>Whether FSSAI has categorized all food items based on risk and can make the list</p>	<p>It was clarified that FSSAI is in the process of developing the risk based assessment framework.</p>

		<i>available to importers?</i>	
4	<u>Provision of certificate of warranty from exporting country</u>	<u>Provision of certificate of warranty from exporting country</u> (Mr. Anil, quality council <p>(a) It was suggested that the FSSAI shall consider the certificates issued by the countries under bilateral agreement as being followed in other developed countries</p> <p>(b) Participant sought to know if the importer provides certificate of warranty from exporting country, will the food consignment still be subjected to test in India.</p> <p>(c) Pointed out discrepancy in the definitions for notified laboratory and wanted to know whether the CFLs are used for testing of first sample.</p> <p>(c) It was suggested that the A.O shall refrain from inspecting the lab as the accreditation is outside the purview of</p>	<p>(a) & (b) It was clarified that compliance with the provision of law of the land is mandatory. Food needs to meet the requirement of the laws of India and not the exporting country. However, the certificate of analysis issued by countries with which India has bilateral understanding and equivalence basis would only be considered.</p> <p>(b) As per proposed regulations CFLs would be exclusively referral labs and hence testing of first sample would not be entertained.</p> <p>(c) & (d) A.O would draw the samples and is given powers to inspect the labs to review the records related to testing of imported food only and he would keep away from the parameter supervised by NABL.</p>

		<p><i>FSSAI</i></p> <p><i>(d) Whether sampling work could be outsourced to labs</i></p>	
<u>5</u>	<p><i>Clause no. 52- Mandatory Destruction Order</i></p>	<p><u><i>Mandatory Destruction Order</i></u></p> <p><i>It was suggested that the clause no. 52 may be reworded as Testing Laboratory report will be giving its findings based on the lab analysis and may not be advisable to permit the lab to recommend mandatory destruction. Authorized officer (AO) of FSSAI is required to take a decision on destruction based on the lab analysis report. In other words, Testing Laboratories role should be restricted to report test result and Authorised officer should take decision to destroy or refined/ reprocessed or any other action.</i></p>	<p><i>It was clarified that in order to help AO to take a decision, the lab may recommend in exceptional cases like food contamination where the lab believes that further storage of such contaminated food would pose a serious risk to the Public health. Eventually, FSSAI will come out with guidelines on assessing the risk posed by the food items and such food consignments will not be allowed to be re- exported and mandatory destruction have to be undertaken.</i></p>
<u>6</u>	<p><i>Clause no. 64- Time to apply for Review</i></p>	<p><u><i>Time to apply for Review</i></u></p> <p><i>It was suggested to fix timelines for the Review officer to dispose the Review application, keeping in view the shelf life of food items and to provide the review</i></p>	<p><i>It was clarified that time line of 7 days from the date of communication of order to the importer has been allowed. However, extended period of 15 days have been allowed in exceptional cases. FSSAI would examine on the time</i></p>

		<i>process in the proposed online system.</i>	<i>period of completion of Review process based on further inputs from stakeholders. It was also clarified that FSSAI is in the process of including the Review process module in the On-line Food Import Clearance System.</i>
<u>7</u>	<u>Clause no. 26 - Classification on the basis of Perishability</u>	<u>Classification on the basis of Perishability</u> <i>It was suggested that beside classification of food items based on risk, there should also be a provision of classification on the basis of perishability.</i>	<i>It was clarified that there is a provision in the draft regulations to release the perishable commodity on submission of undertaking that the product will be recalled from the market, if the test report is negative.</i>
<u>8</u>	<u>Clause no. 9- Suspension/Cancellation of License</u>	<u>Suspension/Cancellation of License</u> <i>(a) Port authority officials suggested that in case the importer does not take responsibility/ come forward to claim/ clear/destroy the goods as per FSSAI recommendations, there must be a provision for conditions of license where in food importers license can be suspended/ cancelled.</i>	<i>(a) It was suggested that this would be examined. Advised the importers/CHAs to come up with ideas to tackle this problem.</i>

		<p><i>(b) It was suggested that there shall be clear-cut guidelines on what and how to carry destruction of rejected food.</i></p> <p><i>(c) In the light of constraints of space in Ports, the source country/ export country lab analysis reports for faster clearance of Food consignments, as it is observed often that Perishable food items become hazardous to the public health due to delays in clearance. While the CHAs/Importers have countered that as per the Customs act disposal of Uncleared / unclaimed goods is the responsibility of Custodians and the Importers shall not be further penalized through suspension of license as he has already put to loss due to rejection of consignment. Importers have also mentioned that they are helpless as some Ports lack proper storage facilities for food/ frozen food.</i></p>	<p><i>(b) It was clarified that the issue is being discussed with the Environment Ministry. It was suggested that the Port authorities to appoint Incinerator agencies for each port for destruction of rejected food.</i></p> <p><i>(c) According to present practice importer is responsible for the imported goods and including its re-export if it fails to comply with the law. Destruction is to be resorted to only in exceptional cases and for that who will bear the cost is the question, if “custodian’s responsibility” is accepted, decision in this regard will be taken based on international practices.</i></p>
<u>9</u>	<u>Clause no. 19 –</u>	<u>Furnishing of Documents by Food</u>	<i>It was clarified that the importers may</i>

	<p><u>Furnishing of Documents by Food Importer</u></p>	<p><u>Importer</u></p> <p><i>It was suggested that stuffing list (The Container Loading Plan) is not available with importer and it would not be feasible for the importers to submit the document to FSSAI as a part of documentation for seeking appointment of A.O for drawing sample. The participants suggested that stuffing list should be replaced by packing list. None of the importers shall be able to provide the Stuffing list as it is prepared by stuffing agent in shipping line & packing list is prepared by exporter Importers also expressed their apprehension to provide the list of the transit countries. . The country of origin certificate indicating the country where it was re-packed shall suffice.</i></p>	<p><i>furnish either the Stuffing list or packing list. List of transit countries may be called for in exceptional basis rather than on routine basis. Further, the Certificate of Analysis from accredited lab from Exporting country is very useful for those products which require refrigeration.</i></p>
<p><u>10</u></p>	<p><u>Clause no. 48- Lab Analysis Reports</u></p>	<p><u>Lab Analysis Reports-</u></p> <p><i>(a) The participants raised the issue of different test result of same sample lot from same product from different laboratories. They highlighted the need</i></p>	<p><i>(a)It was clarified that the issue was already receiving attention of FSSAI. NABL is to ensure that NABL accredited labs are following the laid down processes/ procedures. In those cases, where the test results are</i></p>

		<p><i>for calibration of laboratory equipment adopting of proper testing method and deployment of experienced testing staff.</i></p> <p><i>(b) It was suggested that the FSSAI shall clear different consignments of packed food by different importers of the same batch from the same manufacturer based on the test certificates issued by the manufacturer.</i></p>	<p><i>varying, FSSAI is working on protocols and developing certain procedures for checking (by adopting of Blind Sampling technique) and keeping records.</i></p> <p><i>(b) FSSAI would examine clearing consignments based on test certificates issued by manufacturer.</i></p>
<u>11</u>	<p><u>Clause no. 32- Labeling requirements</u></p>	<p><u>Labeling requirements</u></p> <p><i>(a) CHA association representative informed that as per the Guidelines issued by, Ministry of Commerce, the bulk products intended for re-packing/ re-processing does not require labeling.</i></p> <p><i>(b) It was represented by one of the importers that since Indian imports are a small percentage of the overseas manufacturers, they are not ready to comply the labeling standards of India. Some of the requirements like date of manufacturing, v Veg / Non veg symbol,</i></p>	<p><i>(a)It was clarified that PFA does not exempt bulk package from labeling. CEO asked them to provide a note and FSAAI shall examine this issue to harmonize it with guidelines issued by ministry of commerce.</i></p> <p><i>(b)It was clarified that Veg / Non Veg symbol is treated as rectifiable defect and hence relabeling is permitted in India. This has been clarified number of times to the</i></p>

		<p><i>name of importer is not part of the original label and requested FSSAI to accept adhesive stickers to fulfill Indian standards.</i></p> <p><i>(c) Another participant informed that as per the Codex standards date of manufacturing is not mandatory and has suggested the FSSAI to classify the label requirements to High/low priority based on food safety perspective and accept rectification by importers before the release of consignment.</i></p>	<p><i>importers.</i></p> <p><i>(c) Date of Manufacturing is mandatory requirement as per Indian law. Suggestion on classification of label requirements would be examined from the perspective of Indian laws.</i></p>
<u>12</u>		<p><i>(a) <u>Food articles which are of smaller quantity & expensive for Research /laboratory testing and not intended for human consumption have to be cleared based on self-declaration</u></i></p> <p><i>(b) One of the participants sought to know, whether lifesaving nutritional product for patients imported on the basis of Doctor's prescription would come under the purview of FSSAI.</i></p>	<p><i>(a) It was clarified that if an item is not for human consumption, it will not be under the purview of FSSAI. However for food items for commercial purpose, the Importers are advised to come out with an exceptions list of items, the threshold quantity/ the value which require clearance on self-declaration and without testing.</i></p> <p><i>(b) It was clarified that if it is</i></p>

			<p><i>nutritional product and imported for commercial purpose, it will fall under the purview of FSSAI.</i></p> <p><i>Customs clarified that such imports for personal consumption are allowed without any IEC code.</i></p>
<u>13</u>	<u>Clause no. 38- Inspection of Food Items for Accredited Clients</u>	<p><u>Inspection of Food Items for Accredited Clients</u></p> <p><i>Representative of Oberoi Hotels stated that their hotels have got accredited client status from Ministry of commerce and they import food on urgent basis. Does registering with FSSAI as food business operator help them to get exemption/avail accelerated clearance?</i></p>	<p><i>It was clarified that every food importer has to obtain license as food business importer and all such importers having accredited client status with the Commerce Ministry may be recognized as accredited client by the FSSAI for faster clearance of imports. Perishability, track record of the importer, risks of the food etc. are considered for clearance of food items under accredited client program.</i></p>
<u>14</u>	<u>Clause no. 58 & 59- Uncleared & Unclaimed Goods</u>	<p><u>Uncleared & Unclaimed Goods</u></p> <p><i>Importers suggested that re-processing of food not fulfilling the standards shall be considered by FSSAI as an alternative to destruction. It was also suggested for</i></p>	<p><i>Customs officials clarified that Customs Authority undertakes only Agency function while clearing goods. If the consignment is unclaimed/ un-cleared, it is the task of custodian to take a decision on how to dispose/</i></p>

		<p><i>allowing reprocessing of the food item under the supervision of FSSAI.</i></p>	<p><i>destroy it. Port official clarified that Port/ Custodian should not be responsible to destroy the goods; it should be the liability of Importers to destroy. Port official also informed that the port lacks required infrastructure and sufficient number of incinerators for the destruction job. Participants suggested appointing incinerator agency in each port for destruction work</i></p> <p><i>It was clarified that the issue of destruction of un-cleared/ unclaimed goods is not an easy job because of environmental concerns & other factors and hence a decision cannot be taken under FSSAI regulations. The environment ministry is being consulted in this regard and it requires the involvement of large number of stakeholders to come out with a solution.</i></p> <p><i>It was clarified that space constraints in the Ports is an issue in allowing reprocessing. Hence the importer</i></p>
--	--	--	---

			<i>were asked to exercise due diligence while procuring goods from exporters in order to minimize chances of rejection.</i>
<u>15</u>	<u>Testing Infrastructure at Ports</u>	<u>CHA/Importers suggested to increase Testing Infrastructure at Ports or notifying more number of labs to reduce the time period for getting testing result.</u>	<i>It was clarified that FSSAI has no plans to set up its own Laboratory Testing infrastructure at the ports. However, in order to ensure speedy clearance, FSSAI has already empanelled a number of private NABL accredited labs to undertake the testing. More State labs will also get NABL accreditation in due time. CEO also explained that the On-line system shall be soon rolled out across all the locations. Once the system is implemented, it will significantly reduce the time period forgetting test reports.</i>
<u>16</u>	<u>Whether test result can be made public</u>	<u>Whether test result can be made public</u> <i>One of the Participants sought to know whether test results of imported food samples can be displayed in the public</i>	<i>It was suggested that the CHA and importer community to discuss the above issue and come up with their feedback.</i>

		<i>domain while some other participants have expressed reservations from the perspective of competition from manufacturers.</i>	
--	--	---	--

The following were present during the Stakeholders' Consultation Workshop for food safety and standard (import) Regulations, 2011 on 14th July, 2011, Mumbai.

1. Sh. V.N Gaur, CEO, FSSAI
2. Smt. Sumita Mukhjee, Director, FSSAI
3. Mr. Adesh Mohan, SIO, FSSAI
4. Mr. Parmod Siwach, JIO, FSSAI
5. Dr. Dhir Singh, ADG-PFA, FSSAI
6. Hakshita Gandhi, MD, Tree of life
7. Anil Jauhri, Director, QCI
8. Dr. Kishore harugoli, LHA , BMC
9. Dr. Jayant Khandare, LHA , BMC
10. Pankaj Jain, EO, CII
11. Amit Nageshkar, Asst. RM, Intercont
12. Nitin Agarwal, Director, Universal
13. D. S Chadha, Senior Tech. Asst., CII
14. A.K Singh, Asst. Director, MSME
15. Renu B. Kaushal, MD, RALPL
16. Vikas Bhardwaj, Director, RALPL
17. S.S Verma, Dy. Director, Mins. of agriculture
18. Anita singh William, AVP , Cadbury
19. Vikas Bhardwaj, Director, RALPL
20. Dr. Amit Sharma, A.D, EIA Mumbai
21. Sh. S.N Dwevedi, DD, EIA Mumbai
22. BB Landge, Dy. Comm., Customs Mumbai
23. V. Sridhar, Sector manager, Cadbury

24. Sunil Pagare, Supp. Chain manager, Mead John

25. Prashant Kumar, Jr. Comm., Customs Mumbai

And other participants...

- It may be noted that names of participants have been arranged as appeared in the attendance list and does not follow any seniority order. Any mistake in name spelling is regretted.