



## Position Paper

# A single food safety regulatory agency - An imperative for Sri Lanka

### INTRODUCTION

The controversy on imported milk powder that erupted in August 2013 resulted in the Cabinet of Ministers appointing a cabinet subcommittee to resolve the issues surrounding the importation of milk powder. The torrent of allegations and counter claims overwhelmed the citizenry. The sequence of events unfolded roughly in the following order.

A New Zealand Company admits that minute traces of Dicyandiamide [DCD] were detected in some stocks of Milk powder released by them to the market. However they strongly rejected any possibility of a risk of food safety.

The Director General of the Ministry of Health orders Customs to reject a stock of substandard food items which included 25000 tons of substandard Dhal, 18600 KG of substandard Mango pulp, 16 Metric Tons of Milk Powder, and four containers of Tomato paste.

The Minister of Agriculture advised the public to refrain from using imported Milk Powder.

The Ministry of Health announced that it was ready to ban any Milk Powder found to be contaminated.

A New Zealand based Milk Powder producer admits to the presence of minute amounts of DCD in their products but also insists that the regulators have agreed that New Zealand dairy products are 100% safe.

The Industrial Technology Institute announces the presence of traces of DCD in four brands of imported milk powder from New Zealand. It also announces that two local brands tested, were free of DCD.

The Ministry of Health orders the suspension of advertisements of imported milk powder in electronic media asserting that it may hinder investigations carried out to determine the safety of the products.





Three importers of Milk Powder were requested to remove their products from the market pending tests conducted by the Industrial Technology Institute (ITI) for the presence of DCD in some milk powder samples.

The Ministry of Health calls for the full recall of milk powder stocks of specific brands and the halt in sale until further notice.

The Ministry of Health announces that tests carried out in Thailand had found no traces of DCD in imported milk powder distributed in Sri Lanka. It had sent 128 samples of milk powder to be tested in laboratories in Thailand.

The Milk Powder narrative with its own babble of voices of dissent and discord exposed the unembellished truth that Sri Lanka had no any regulatory agency to respond effectively and authoritatively to public concerns on the safety of food products.

The sequence of events as shown here indicates that there is no clear protocol that could determine the safety of food products. The diffused authority of the state is reflected in the conflicting signals from different arms of the state.

Several state agencies vested with discretionary authority is a recipe for confusion and corruption. The ordinary citizens are willing to sacrifice immediate advantages if convinced that long term good would accrue to all fellow citizens. That requires the government to be transparent and disciplined in its commitment to the public good by providing a clear strategy to respond to a given situation – in this instance that of food safety. When confronted with a crisis the public expects a capable government authority to lay out a clear procedure that implies no ambiguity. A transparent government has to have the capacity to enforce the law and mediate disputes. Clearly it is necessary to put in place an institutional structure that governs the interactions among players in the food industry.

## A Global overview

The profusion of food products and the rapid movement of food products across borders compel all countries to adopt a coherent national policy on food safety. Today most countries have setup a single statutory authority to enforce a national food regulatory system. Sri Lanka is yet to conform to this international practice.

These national regulatory bodies are equipped to deal with food safety issues at national level and through close international cooperation. They exchange information on food safety by sharing experiences and expertise.

International cooperation in food safety is facilitated by the International Food Safety Authorities Network (INFOSAN). It is a joint endeavor by the World Health

Organization [WHO] and the Food and Agriculture Organization [FAO] the two key UN agencies with a mandate to monitor the supply and safety of food. Since the production, distribution and marketing of food products is a global phenomenon that transcends borders this international monitoring mechanism of INFOSAN\* is vital in ensuring food safety even within national boundaries. INFOSAN has 181 member states including Sri Lanka.<sup>1</sup>

The INFOSAN network has the following four specific objectives:

- Promote the rapid exchange of information during food safety related events;
- Share information on important food safety related issues of global interest;
- Promote partnership and collaboration between countries; and
- Help countries strengthen their capacity to manage food safety risks.

Each member state has a designated contact point that enables member states to link up with the INFOSAN secretariat in emergency situations.

It is useful to examine how INFOSAN and the regulatory mechanisms work in other countries in the South Asian region.

- Bangladesh -, the Institute of Public Health Nutrition (IPHN) of the Ministry of Health and Family Welfare is the national INFOSAN emergency contact point.
- Bhutan- the Department of Public Health of the Ministry of Health is the national emergency contact point in INFOSAN.
- India -, the Food Safety and Standards Authority of India is the INFOSAN focal point.
- Indonesia -, the Director for Food Safety Surveillance and Extension, the National Agency of Drug and Food Control (NADFC), acts as the INFOSAN emergency point of contact.
- Maldives - the Food and Drugs Authority (MFDA), Ministry of Health and Family, is the INFOSAN focal point.
- Myanmar - the Food and Drug Administration, Ministry of Health, is designated as the INFOSAN contact point.

## What is food regulation?

The term “Food” identifies any substance, whether processed, partially processed or unprocessed, intended for human consumption. In today’s context, food distribution chains span the world and the global food and beverage industry is larger than all other industries combined. The size of the industry and the fierce competition within it calls for strict supervision.

1. Overview of the International Food Safety Authority Network (INFOSAN) in the Member States of the WHO South-East Asia Region [www.who.int/foodsafety/fs\\_management/infosan/](http://www.who.int/foodsafety/fs_management/infosan/)

Everybody involved strives for greater market share and increased profits and the shortest route to both is by compromise in quality and safety. Therefore it cries out for constant supervision through; “ a mandatory regulatory activity of enforcement by national or local authorities to provide consumer protection and ensure that all foods during production, handling, storage, processing, and distribution are safe, wholesome and fit for human consumption; conform to safety and quality requirements; and are honestly and accurately labeled as prescribed by law.”

The fundamental responsibility of food control is to enforce the compliance with food laws that protect the consumer against unsafe, impure and fraudulently presented food. Consumers should be assured that agriculture produce is safe from the point of the producers up to the shop shelf, fish is safe from catch to the point of sale and poultry and livestock are free from pathogens. Processed foods must be pasteurized or sterilized, and canned or otherwise packaged in aseptically sealed containers. Fresh food should be subject to inspections.

## Why a national food safety standards agency

The principal tasks of a National Authority or agency would be to;

- Protect public health by reducing the risk of food borne illness;
- Protecting consumers from unsanitary, unwholesome, mislabeled or adulterated food ;
- Help maintain consumer confidence in the food system;
- Ensuring a strict regulatory mechanism for both for domestic and imported food products fresh, preserved and processed.

The absence of a single accountable and authoritative agency on food safety will result in fragmented legislation, multiple jurisdictions, and weaknesses in surveillance, monitoring and enforcement. This was clearly visible during the Milk Foods controversy.

Such a single regulatory body should have the power to enforce guidelines to protect public health, prevent fraud and deception, avoid food adulteration and Facilitate trade. The regulatory body should advise the government to select the most suitable options for its food control systems in terms of legislation, infrastructure and enforcement mechanisms.

## The present Legislative frame work-

The present legislation on food safety is confined to the Food Act No 26 of 1980 and the Food (Amendment) Act No.20 of 1991. This Act controls the Manufacture, Importation, Transport, Sale, Distribution, Advertisement, and Labeling of food. Regulations under this act also envisages a ‘Chief

Food Authority’ who in concurrence with a “Food Advisory Committee “will regulate and enforce food safety measures.

While the act envisages a ‘Chief Food Authority’ in practice we see a variety of agencies, institutions and officials making pronouncements and determinations while also resorting to political cover in the form of a cabinet sub-committee as in the case of the milk powder debate.

The Food Advisory Committee consists of the Director General of Health Services as Chairman Director (E & OH) as Secretary, DDG (PHS) , Assistant Director –FCAU, City Analyst, Director General Customs, A Representative of the Ministry of Trade and Commerce, two members representing the consumer, two members representing commercial interests, a nutritionist, a food technologist, an expert on Food Science, The Government Analyst and Director General of the Sri Lanka Standards Institute.<sup>2</sup>

The Food Advisory Committee with this esoteric composition claims that ‘It shall be the duty of the committee to advise the Minister on matters arising out of the administration of this act’.

According to the Administrative Structure stipulated in the Food Act No 26 of 1980 , the Minister of Health with the Director General of Health Services assumes total administrative and executive responsibilities of this vital subject.

While the regulations seem to recognize the need for a Chief Food Authority it is eloquently silent on the powers, functions, and the qualifications of such an authority that is already in place in most countries with statutory authority . The assertion that Sri Lanka is far behind in global trends that govern food safety is no exaggeration. However what it implies is the vast space that is available for corruption, malpractices and the threat to the health of the people who must necessarily rely on the state to ensure the quality and safety of food they consume.

The main defect in the food control and food safety system in place is its absolute inability of enforcement. The Food Act itself recognizes the imperatives of food safety as identified by the FAO and the WHO.

While it claims that its provisions are mandatory it makes no attempt to enforce the mandatory provisions.

Food Control Administration is a highly specialized field. It calls for constant engagement with food manufactures, producers, administrators and most importantly consumers. It is the principal reason

that has compelled many developed and developing countries to entrust Food Control and Safety to a separate institution outside the Ministry of Health whose primary task is 'health care delivery'.

An efficient food safety/ control system requires policy and operational coordination at the highest national level. The enabling legislation should clearly define the accountability for a national food safety and control strategy.

The core responsibilities of a National Food Authority should include the imposition of regulatory measures, monitoring system performance and ensuring continuous improvements in keeping with global dynamics.

The administration and implementation of food laws call for officers with integrity who are qualified and trained in this specific field.

Modern laboratories are an essential component of a food control system. The establishment of laboratories calls for substantial investment. This is an area where qualified personnel with peer recognition can promote regional cooperation. It should also be possible to obtain expertise and facilities from outside while laying down the norms of laboratory examination as required.

The dissemination of information is a vital area of activity in any food control system. This involves delivery of factual information to consumers. It is also necessary to keep officials and others engaged in the food control system updated with balanced and accurate information.

**Transparency international Sri Lanka is the Sri Lankan representative of Transparency International which the premier global organization that holds prevention of corruption as its primary objective. The organization with more than hundred branches around the world has dedicated its entire network to promote policies of transparency, accountability and good governance.**

**Enhancing public awareness, mobilizing public participation and building a country with integrity is our objective.**

Please forward your views on this position paper to

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## Recommendations

- The government should take urgent steps to set up an independent Food Authority by statute dedicated entirely to Food Control Administration.
- Such an authority should work in close liaison with The Ministries of Health and Trade but should be accountable to the Cabinet of Ministers or the head of state.
- The broad mandate and the structure of the proposed food authority should cover the following.
- Framing of Regulations that define the Standards and guidelines in relation to articles of food
- Devising appropriate systems of enforcing various standards and making them published.
- Framing guidelines for accrediting agencies empowered in certification of food safety management system for food businesses.
- Laying down procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories.
- To advice the relevant state agencies and offer technical support in areas that have a direct or indirect bearing on food safety and nutrition .
- Collect and collate data regarding food consumption, incidence and prevalence of biological risk, contaminants in food, residues of various, and contaminants in foods products, identification of emerging risks and introduction of rapid alert system.
- Creating an information network across the country to keep consumers, civil society entities etc updated with reliable, objective and up-to-date information on food safety.
- Provide training or persons involved in food related businesses.
- Contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards.
- Promote general awareness about food safety and food standards.
- We should heed the advice of bodies such as the WHO and the FAO and learn from the experiences of other countries in fashioning a regulatory framework that will meet our national needs and international benchmarks.