

MSc Thesis

The Development of Chinese Food Safety Legal and Supervision System, in the Last Decade



Student	Rong Feng	
Registration number	890523-238-020	
Study program	Msc Food Safety	
Course code	LAW-80436	
Supervisors	Prof. dr. mr.BMJ van der Meulen	Law and Governance Group
Examiner	Prof. dr. mr.BMJ van der Meulen	Law and Governance Group
	Li Jiao	HIL International Lawyers & Advisers

June 2013

Abstract

The term used for crisis in Chinese contains two words: danger and opportunity. The same words could be used to describe the essential elements of any crisis. The crisis can be a danger for the brand, the producers, the consumers, the organizations concerned, as well as the investors, shareholders and insurers, or even the entire industry. On the other hand, if the crisis is handled well, the situation can be an opportunity for a company to reinforce its commitment to its consumers and equally be an opportunity for consumers to reinforce their loyalty to that particular company or product.

In recent years, frequent outbreaks of food safety crises in China, such as Melamine formula milk powder, Clenbuterol pork, etc, have attracted worldwide attention. The Chinese government, industry as well as consumers, etc, all suffered a lot from these food safety problems. However, the legislation system, the monitoring measures, etc, have been improved during these crises.

In the latest decade, the Chinese food safety laws and regulations as well as supervision system has been improved several times to suit the latest situations. The most significant legal achievement is the Food Safety Law which took effect on June 1, 2009. The Food Safety Law had brought several new ideas to the supervision work of food safety, the punishments of violation, and also the specific standards and regulations of food safety. Although there are still practical problems exist, the Food Safety Law complements the food safety legal system in China.

Key words: Food Safety Law, Food Sanitation Law, supervision system.

Acknowledgements

First of all, I would like to extend my sincere gratitude to prof. Bernd van der Meulen for his constant encouragement and guidance. My thesis would not have been accomplished without Bernd's instructive advices and useful suggestions. I also wish to sincerely thank Dr. Eva van der Zee who have instructed and helped me a lot with my thesis.

I am also deeply indebted to all the authors of my references, especially the idea of Food Safety Law part refers to the book European Food Law Hand Book.

Special thanks should also go to my friends who have helped me a lot in searching and downloading the references as well as discussing the topic.

In addition, I would like to express my gratitude to the tutors and classmates of the Chinese food and agriculture law course and from the Msc food safety program for inspirations they gave me.

Finally, I am indebted to my family and friends for their continuous support and encouragement.

Table of Contents

ABSTRACT	2
ACKNOWLEDGEMENTS	3
TABLE OF CONTENTS	4
LIST OF ABBREVIATIONS.....	6
1. INTRODUCTION.....	1
1.1 RESEARCH AIM	1
1.2 RESEARCH QUESTIONS	1
1.3 METHODOLOGY	2
1.4 THESIS OUTLINE.....	2
2. POLICY AND PERIODICAL FEATURES OF FOOD SAFETY REGULATION: 1978- ONWARDS.....	3
2.1 PREPARATORY PHASE(1978-1992)	3
2.2 DEVELOPMENT STAGE(1993-2007)	4
2.3 EXPLORATORY PHASE(2008- ONWARDS).....	6
2.4 LAW BEFORE FOOD SAFETY LAW- FOOD SANITATION LAW	7
3. CHINESE FOOD LEGAL SUPERVISION SYSTEM	9
3.1 CURRENT OVERVIEW OF CHINESE INSTITUTION FRAMEWORK	10
3.2 IMPORTANT SECTORS AND THEIR RESPONSIBILITIES.....	13
3.2.1 Ministry of Agriculture(MOA).....	13
3.2.2 General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China(AQSIQ)	13
3.2.3 Ministry of Health(MOH).....	14
3.2.4 State Administration for Industry and Commerce(SAIC)	15
3.2.5 State Food and Drug Administration (SFDA)	15
3.3 POSSIBLE PROBLEMS AND FUTURE TRENDS.....	16
4.OVERVIEW OF CHINESE FOOD SAFETY LAW.....	18
4.1 FROM FOOD SANITATION TO FOOD SAFETY	18
4.2 FOUR ELEMENTS OF FOOD SAFETY LAW	24
4.2.1 Aim	24
4.2.2 Scope	24
4.2.3 Definitions	26
4.2.4 General principles.....	27
4.3 SOCIAL REPERCUSSIONS AND FUTURE TRENDS.....	30
5. CASE STUDY FOR THE DEVELOPMENT OF CHINESE FOOD SAFETY MANAGEMENT.....	32
5.1 ANHUI FUYANG “BIG HEAD BABIES”CASE	32
5.2 DUMPLING POISONING INCIDENT	33
5.3 SANLU INFANT MILK POWDER CASE.....	35

6. CONCLUSIONS.....	39
REFERENCES:.....	40
APPENDIX	43

List of abbreviations

AQSIQ	State General Administration of Quality Supervision, Inspection and Quarantine
CPC	Communist Party of China
EU	European Union
FDA	United states Food and Drug Administration
FSL	Chinese Food Safety Law
HACCP	Hazard Analysis and Critical Control Points
MOA	Ministry of Agriculture of China
MOH	Ministry of Health of China
SAIC	Administration for Industry and Commerce Ministry of China
WTO	World Trade Organization

1. Introduction

The term used for crisis in Chinese contains two words: danger and opportunity. The same words could be used to describe the essential elements of any crisis. The crisis can be a danger for the brand, the producers, the consumers, the organizations concerned, as well as the investors, shareholders and insurers, or even the entire industry. On the other hand, if the crisis is handled well, the situation can be an opportunity for a company to reinforce its commitment to its consumers and equally be an opportunity for consumers to reinforce their loyalty to that particular company or product (Colin.D, 2005).

In recent years, frequent outbreaks of animal health and food safety crises in China, such as avian flu poultry meat, Melamine formula milk powder, Clenbuterol pork, have attracted worldwide attention. The Chinese government, industry and consumers suffered a lot from these food safety problems. The result of a Questionnaire survey of 1000 people in Zhengzhou, Henan Province, China shows that more than 90% of the respondents believed that their food are not safe (Liqiang.C, 2011) .

However, the legislation system, the monitoring measures of Chinese food issues have been improved during these crises. China's regulatory practice history of food safety is not long. It started with the Food Hygiene Regulations in 1979. During these years, Chinese food safety regulatory system has transformed from disorder to rule-based.

In this thesis, the Chinese food safety emergency measures and crisis management legislation system will be studied in-depth. The study will mainly consist of a discussion on the related regulations and directives, the relevant organizations and the key stakeholders, the case study and the future trend.

1.1 Research aim

The Chinese food safety emergency measures and crisis management legislation system will be studied in-depth in this thesis: the structure of this system will be drawn, the main regulation and key players will be summarized, the recent cases will be discussed and the future trend will be advised.

1.2 Research questions

- What differences are there between Food Safety Law and the food safety laws before?
- Does Chinese Food Safety Law mentions consumers and does it say about consumers?- The saying "five departments can't handle one dish" is popular in China, does Food Safety Law bring any changes about this?
- Does the frequency of occurrence of food safety issues in China decreased significantly and

why?

1.3 Methodology

The thesis research constituted a legal analysis of Chinese Food Safety Law. The analysis followed doctrinal research methodology through the Issue-Rules-Analysis-Conclusions approach. This framework is built to describe the structure of the Law. The legislative history of Chinese food safety regulatory practice was discussed in details. In addition, scholarly articles were searched using the keywords: Chinese, food safety and food sanitation.

Alongside the analysis of identified rules, two studies are included. First, the Chinese food supervision institution framework is introduced from history to present. Since food safety control has become one of the most important works of Chinese government, and government always plays a leading role in food security affairs. By studying the institutional framework, we can get a clearer view of how the Chinese Food Safety Law works and how the food safety issues are dealt with. The second part is case studies. Chinese regulation system does not have the Case Law part, the cases are chosen from recent publications, for the following reasons:

- A huge number of people were affected.
- There are published descriptions of the process of the case.

1.4 Thesis outline

Chapter 2 relates policy and periodical features of food safety regulation from 1978 till present. Chapter 3 introduces the Chinese food supervision institution framework, and Chapter 4 discusses the Chinese Food Safety Law by structure and in detail. These two Chapters present how the food regulation works in China, which is shown in practice in Chapter 5 case study. The final conclusions are placed in the last chapter.

2. Policy and Periodical Features of Food Safety Regulation:

1978- onwards

It is always difficult for people from other countries to understand the way legal and judicial system works in China. Unlike the relatively autonomous legal and judicial systems their countries may have, this system in China seems to be not that independent, because it is actually under the leadership of Communist Party of China.

Since the close ties between legal system and politics in China, many researchers choose to divide the history of food law of People's Republic of China into three parts, which starts from the year 1978. These parts are: preparatory phase (1978-1992), development stage (1993-2007) and exploratory phase (2008-now).

In view of the causes of food safety issues of China and the situations each stage may have, the characters of each stage are shown in two parts, namely the legal-market system and the legal supervision system (government supervision system). The relationship of these factors and food safety issues can be showed in Figure 1.

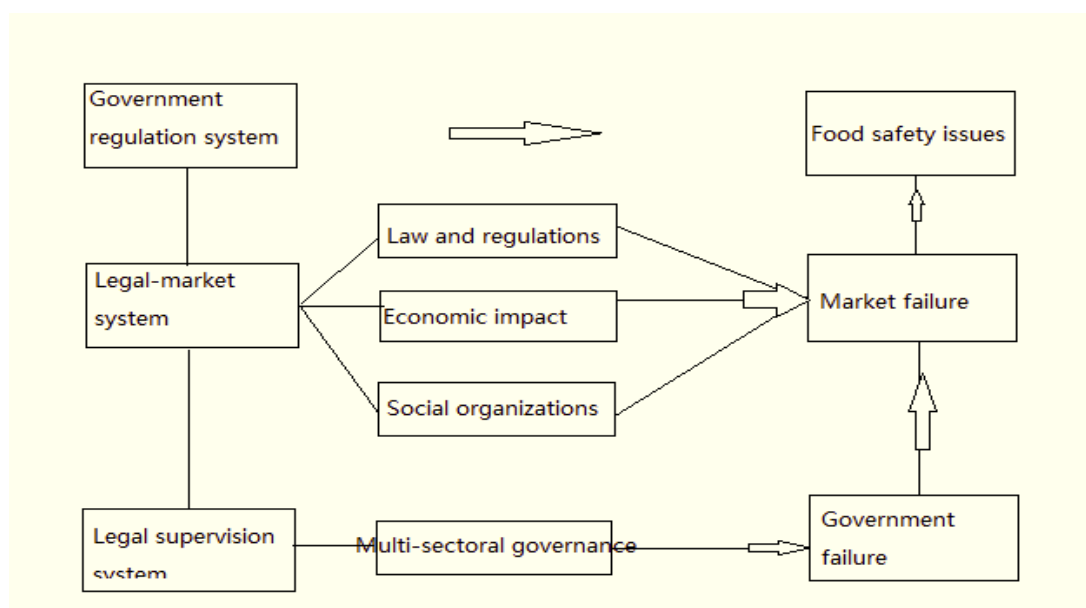


Figure1. How do government regulatory factors affect food safety issues.

In general, during these 35 years, Chinese government experienced a huge reform: Participating in market operation (1978-1992) - Regulating the market (1993-2007) - Service-oriented (2008-now). According to these changes the regulation and market changes as well. The characters of these three stages are:

2.1 Preparatory phase(1978-1992)

The year 1978 is very important for the development of China. The Third Plenary Session of the CPC held that year, and during this meeting “reform and opening up” was added as one of the

basic national policies. It is a turning point in China's history. The decision of strengthen socialist democracy and legal system was also made in this remarkable meeting and which also became the beginning of several significant achievements in legislation of China.

Since the year 1978, the market-oriented reforms of food industry solved the food supply shortage quickly, while food safety regulatory framework of China also started to enter the economic startup stage. However, the 'market-oriented' economy at that time was controlled by government most of the times. This stage has the following characteristics:

- Legal-market system began to build (Bei Z., Huanjin C., 2012).

First, the building of food import and export controls and food standards system took shape. Regulations like the Chinese Food Hygiene Regulations which was promulgated in August 1979; the Chinese Food Sanitation Law (Trial)¹ which was launch in May 1982 and Chinese Measurement Law which was promulgated in May 1985 promoted the construction of food safety and legal system.

Secondly, social organizations began to develop. For example, the Consumer Associations, which was established in 1984, played an active role in food safety protection by receiving consumer complaints, supervision of goods and services and educating the public, etc.

Thirdly, the Chinese government began to regulate food safety by using economic measures. By the Quality Products Complement the Department of Commerce Named Interim Measures² (released in May 1982), the Ministry of Commerce-Quality Product Selection Management Approach (revised in December 1986) and some other documents, Chinese government boosted the competitiveness of high-quality products in the market.

- Legal supervision system began to build.

Just after the promulgation of Chinese Food Sanitation Law in 1982, China began to build its own food safety regulatory framework which is co-managed by the Ministry of Health, the State Planning Commission, and the State Administration for Industry, Commerce and other ministries.

2.2 Development stage(1993-2007)

In the spring of 1992, the former national leader Deng Xiaoping embarked on a tour of southern China to restore faith in the reforms and opening up, and to stop the country's slide back into Maoism (which tended to closed politics). During this visit a market-oriented economy was proposed again by Deng and received official sanction at the 14th Party Congress later in January 1993 (Youhai S., 2008).

So during the period 1993-2007, agricultural production organization, production and

¹ Chinese Food Sanitation Law (Trial): the trial version of Food Sanitation Law is also law, and has legal effect. The trial version of Food Sanitation Law was later revised into the Food Sanitation Law in 1995.

² Quality Products Complement the Department of Commerce Named Interim Measures: the document gives the detailed rules on how to select the Quality Products which will receive financial and policy support from the Chinese government. This document was replaced by the Ministry of Commerce-Quality Product Selection Management Approach in 1986.

processing enterprises had become important food market players. When the market competition promoted a rapid growth of the number of food products, food safety incidents had begun to appear. This stage has the following characteristics:

- Legal- market system was developed.

First of all is the improvement of food related regulations. In order to meet the needs of marketing mechanism, Chinese government had increased the intensity of legislation in the field of food and processes. The food related laws and regulations promulgated during these years are: the Food Sanitation Law, the Product Quality Law, the Price Law, the Advertising Law, the Trademark Law, the Consumer Protection Law, the Food Processing Enterprise Quality Safety Supervision and Management Measures, the General Review of Food Safety Market Access, the Pesticide Production Management Approach, Anti-Unfair Competition Law, and administrative regulations issued by many ministries, as well as the Supreme People's Court and the Supreme People's Procuratorate of judicial interpretation. All of these laws and regulations had developed the food safety regulatory system of law from the health, quality, access regulation, consumer protection and other aspects.

Secondly, economic measure had been introduced. During this period, food companies began to pay more attention to quality and reputation, new technologies, adoption and implementation of HACCP, GMP, ISO9000 and other international standards. On the other side, the government acquired more experience about the market and greatly increased its ability to control the market.

Thirdly, the social regulation system was gradually strengthened. The National People's Congress promulgated the Consumer Protection Law in 1993 which aimed to protect the interests of consumers and also played an important role in maintaining market order. Many other social organizations (also called “third-party organizations”) had been set up during this period, including the Food Industry Associations, National Food Industry Association, Beverage Industry Associations, Non-Staple Food Circulation Association, Food Additives Industry Association, Food Packaging Machinery Industry Association, etc. These organizations participated in industry regulations, standards development, project evaluation, technical consulting, trade arbitration, market regulation, personnel training and other aspects of food market and gradually played an irreplaceable role. In addition, a number of independent third-party food testing organization had been established, they made great effort to improve the fairness of detection (Jun L., Hongsen T., 2012).

- Legal supervision system began to reform and to suit the market.

The role of the Chinese government started to reform during this period, the functions of government intervention in business were gradually weakening, while its functions in market regulation and social services were increasingly strengthened. Many administrations related to food industry transformed their

functions during the years from 1993 to 2007. Such as the Ministry of Light Industry in 1993 set up the China Light Industry Federation, and later incorporated into the State Economic and Trade Commission in 1998; the Ministry of Commerce and the Department of Materials in 1993 merged into the Ministry of Domestic Trade, 1998 reorganized as the State Economic Trade Commission of the State Council, the State Economic and Trade Commission in 2000 and merged with the Ministry of Foreign Trade and the Ministry of Commerce, the ministries functions delineated in the food distribution and operations management functions directly gradually stripped; etc. At the same time, the functions of industrial and commercial administration, quality supervision, food and drug supervision and regulatory authorities in markets such as food safety regulatory had been strengthened.

In 2004, The State Council issued Decisions on Future Strengthening Food Safety to make further reforms of the specific regulatory system; divide the responsibilities of related ministries, like the regulation on food and drug licensing authority, agriculture, health, quality inspection, industry and commerce, science and technology, environmental protection, legal ministries, etc(Hui J.,2011). In general, the legal supervision system of this period is characterized by sub-regulation based, while variety regulatory supplemented.

2.3 Exploratory phase(2008- onwards)

Since 2008, China had begun to implement the concept of service-oriented government. Apart from that, along with the continued expansion and modernization of food production industry, the issues concerning life and health, environmental pollution, product safety, etc. become more and more important. In recent years, food safety incidents have occurred so many times, public requires for safer food are more and more urgent. This stage has the following characteristics:

- Legal and market system is adjusting the new situation.

First and the most important is the comprehensive upgrade of the basic regulation for food safety, namely, the promulgation of Food Safety Law. To adapt to the new situation of economic and social development, on February 2009 China promulgated the first version of Food Safety Law which replaced the 14-year-old adopted Food Sanitation Law. There are a number of important breakthroughs which is discussed in chapter 3,4and 5. Furthermore, Chinese government uses the Food Safety Law as the Basic Law to guide and integrate with other laws and regulations, finally constructs a better food regulatory system.

Secondly, the government increases efforts on administrative regulation and Improves and enhances the access threshold. For example, on October 2009, China implemented the new Food Labeling Management Approach; accordingly, the regulatory access to food and beverage industry has also been adjusted, like in February 2010 China issued Food Service Food Safety Supervision and Management Measures, Food service License Management

Approach, New Food Additive Management Approach, etc.; and in September 2011 China released Import and Export Food Safety Management Approach and so on. These regulations, which involved in production license, health permits, safety evaluation system, identity management, etc., amendments to the original laws and regulations, as well as Improves and enhances the food safety systems and standards regulation.

Thirdly, regulation of quality is enhanced by introducing internationally accepted quality certification standards. For example, HACCP, GMP testing and other technical tools were promoted in dairy, meat processing and food processing enterprise. Meanwhile, foreign independent “third-party organizations” were introduced, such as the Quality Mark Certification, PONY test, the German BCS, etc., these organizations greatly improved the detection fairness and extends the role of social regulation tool in food safety regulation field.

- The overall expansion of legal supervision system.

In 2010, the National Food Safety Commission was established to supervise the implementation of Food safety supervision system, and to increase the coordination of regulatory affairs. Since then, it gradually integrated Chinese food safety regulation framework.

Meanwhile, under the concept of service-oriented government, Chinese government started to pay more attention to the roles food business, social organizations, consumer groups and other non-governmental bodies play in the food safety regulation field (National R. R., 2013). Chinese government also started to encourage and support the food business, social dimensions and the main consumer groups be actively involved in regulatory affairs, aiming at improving the efficiency of the enforcement of food safety regulation policy.

2.4 Law before Food Safety Law- Food Sanitation Law

Before the implementation of the Food Safety Law, There were almost 917 regulations and laws related to food in China since 1949, of which about 96%(877) were promulgated after the reform and opening up(December 1978)(Yongmao Y., 2009). Among all these regulations and laws, Food Sanitation Law is the most related to food safety issues, and it is also one of the most important. Since the trial implementation of the Food Sanitation Law in 1983, which was updated in 1995 and replaced by the Food Safety Law in 2009, the Food Sanitation Law guided the food safety legal and supervision system for 27 years. Although the full texts of Food Sanitation Law provided publically are almost all revised versions, these texts can show the structure of Food Sanitation Law. The simple structure of the Food Sanitation Law is showed in table 1.

However, especially since 2004 Anhui Fuyang “big head babies” -crisis³ (Chapter 5), the

³ Anhui Fuyang “big head babies” crisis: This crisis occurred in 2004, South China. At that time, many babies were checked out to have the similar symptoms like big head, because of the consumption of inferior infant formula.

original Food Sanitation Law is not in line with the current developments . The problems are basic to details.

First of all, food safety was clearly not the main goal of food safety legislation. When the Food Sanitation Law was legislated in 1995, the social and market backgrounds were totally different from that of the 21st century. At that time, agricultural product level were too low to feed the population, so the focus of the government was to solve the food quantity issues. For that reason, the focus of the government was not on food safety. In this way, although the Food Sanitation Law had updated many times, its main goal was always the hygiene issues.

In the Food Sanitation Law definition for food was narrow. "Food" refers to any finished product or raw material intended for people to eat or drink, as well as any product that has traditionally served as both food and medication, with the exception of products used solely for medical purposes.(art.54 Food Sanitation Law).

The definition of food did not include planting, breeding process and the pesticides, veterinary drugs, Drugs, feed additives, fertilizer and other agricultural inputs related to agricultural products. Furthermore, there is no definition for food safety.

There were even more problems when the 1995 law meets the 21st century's market. This will be discussed in Chapter 4.

Table1. Structure of Food Sanitation Law.

Food Sanitation Law		
General principles		
Requirements for food business	Responsibilities for consumers and non-government agencies	Power for food supervision system(Government)
Product: Specifically mentioned: Food for baby and children Food additives Noble food/ingredient	Participate in supervision: Complaint	Standards settings
Process: Hygiene Testing		Food Sanitation Management: Sanitation license
Communication: Labeling		Food sanitation supervision: Food Poisoning incident
		Enforcement

3. Chinese food legal supervision system

Before February 2010, the National Food Safety Committee was established. Generally, China's food safety management functions can be roughly divided into two categories. One is the management of general affairs, which mainly reflects the administrative licensing of food production, processing, management and consumption. The other is the technical management, mainly in setting Food Standards and inspection and test of food. These two types of management functions corresponding government institutions, essentially spread in the Ministry of Health(MOH), Ministry of Agriculture(MOA), the State General Administration of Quality Supervision, Inspection and Quarantine(AQSIQ) Administration for Industry and Commerce ministry(SAIC). However, it is ironic that there is a saying stating that “eight ministries can’t manage a pig well”. According to statistics, food safety professionals who worked these institutions have more than one million people, and these people must be sufficient to form a huge regulatory network, but proved to be that such intensive supervision, huge costs, does not have obvious effects (Zhuolin Y. 2009).

Administrative functions of the department of food safety are defined by law as well as departmental rules. China's administrative framework was the combination of bar-style and block-style management. The bar-style management system is about the governments. It is the system of central government - provincial governments - municipal governments - county and township levels of governments, which is showed in figure 2.

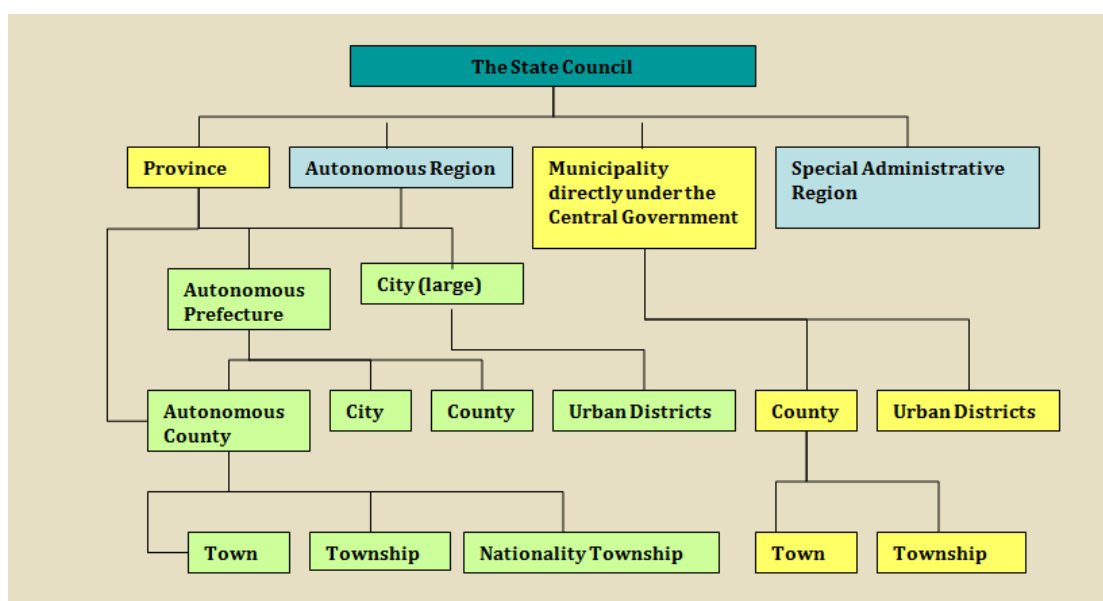


Figure 2. Administrative Division of the PRC(Bart K.,2012)

The Central government (State Council) is responsible for the development of national administrative regulations; the local government formulates local administrative rules. The Block-style management system is mainly about ministries and the authorities directly under the management of the ministries, and the overall head is the State Council. This system include: the State Council - the ministries - the subordinate departments and agencies of the ministries - municipal departments and agencies. Block –style management is classified to the jurisdiction of different departments in the field of food safety, and this system is what we are discussing here.

The State Council, synonymous with the Central People's Government since 1954 (particularly in relation to local governments), is the chief administrative authority of the People's Republic of China. It is chaired by premier of China and includes the heads of each governmental department and agency. Currently, the council has 35 members: one premier, one executive vice premier, three vice premiers, five state councilors (of whom two are also ministers), and 25 additional ministers and chairs of major agencies.

From 1995 to 2009, China's food safety supervision institutions basically went from the head of the health sector to co-regulatory of the ministries of health, agriculture, industry and commerce and quality, and then to Co-operative supervision of the ministries of health, food and drug, agriculture, industry and commerce and quality (Pinghui X., Zhigang Y. 2005). However, the situation changes when Food Safety Committee was established in 2010 within the State Council to act as the highest authority to oversee food safety in China.

3.1 Current overview of Chinese institution framework

Under the Food Safety Law, a Food Safety Committee is established within the State Council to act as the highest authority to oversee food safety in China.

The Food Safety Committee (FSC) coordinates and supervises the main authorities responsible for food safety in China, which include the Ministry of Agriculture (MOA), General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), State Administration for Industry and Commerce (SAIC), Ministry of Health (MOH), and State Food and Drug Administration (SFDA). The commission consists of three vice premiers and twelve minister-level officials. Li Keqiang, one of the vice premiers of the State Council, is now working as director of FSC. Figure 3 shows the structure of this new supervision system.

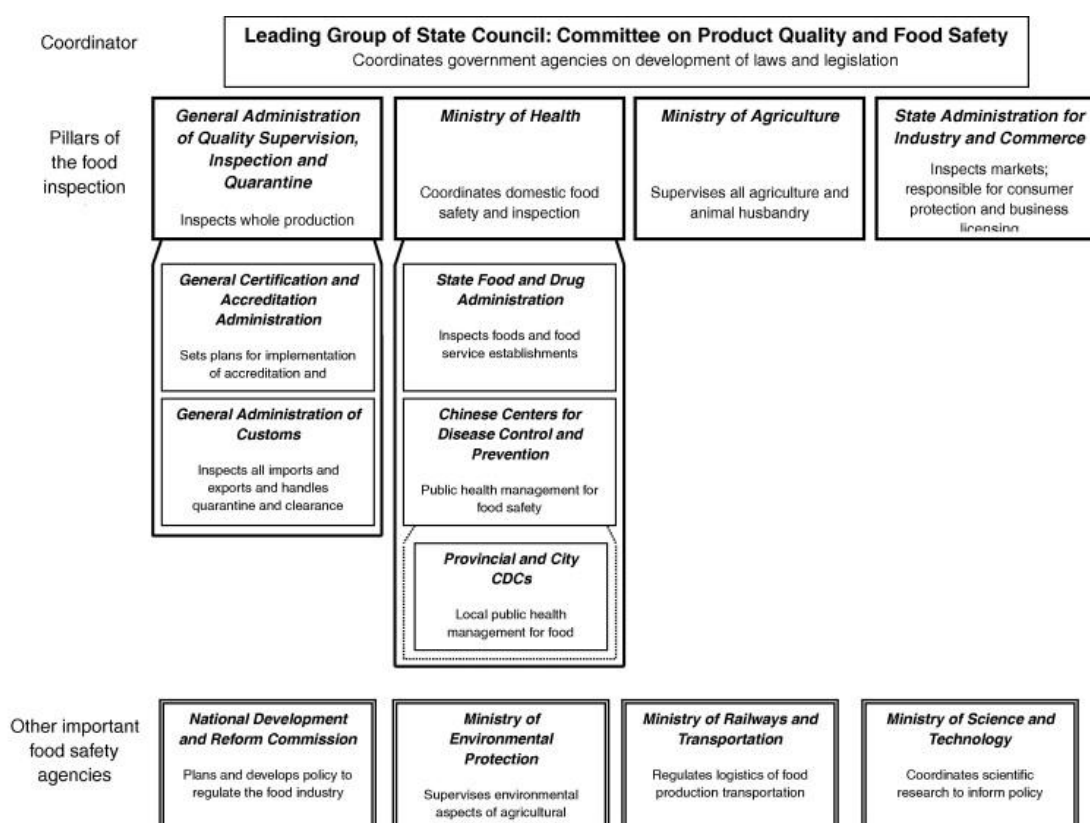


Figure 3. Organization and responsibilities of Chinese food safety agencies (Edward I. B., Damian G. W. 2010)

The Food Safety Committee is the overall decision making body, and the Food Safety Committee Office of the State Council is the office of Food Safety Committee, and specifically dealing with the day-to-day work of the Committee (Central Office [2011] No. 216). The main duties of the State Council Food Safety Office are:

- Organize the implementation the State Council on food safety guidelines and policies, organize and conduct the investigation and study of the major food safety problem, and make policy recommendations.
- Organize the development of national food safety programs, the coordination and the promotion of the implementation.
- Contractor the comprehensive coordination tasks assigned by the Food Safety Committee of the State Council, to promote and improve coordination linkage mechanism, improve the comprehensive regulatory system to guide the comprehensive coordination of local food safety agencies to carry out related work.
- Implementation of supervision and inspection of food safety laws and regulations and the Food Safety Committee of the State Council decisions and arrangements.
- Supervision and inspection of the relevant departments of the State Council and provincial People's Government to fulfill its food safety regulatory duties, and is responsible for the assessment and evaluation.
- Guidance to improve the food safety hazards investigation and management mechanism to organize a major food safety rectify and the Joint Inspection actions.
- Promote food safety emergency response system and capacity building, organizational

development of national food safety emergency plans, supervision, guidance, and coordination of major food safety accidents disposal and responsibility for the investigation.

- Norms guiding the work of food safety information, the organization coordinating the food safety awareness training, and to carry out international exchanges and cooperation in food safety.
- The contractors meeting of the Food Safety Committee of the State Council, telegrams and other daily works.
- Other tasks assigned by the the State Council Food Safety Committee.

Food Safety Office of the State Council set up the General Affairs Department, Division for coordination and guidance, supervision and inspection of Division, Emergency Management Division, Policy and Regulation Department, publicity and Technology Division, six internal organs, organs of the party committee offices located in the General Affairs department(John B. 2012).

Food Safety Office of the State Council does not replace the relevant institutions in the management of food safety; the relevant institutions still work according to their respective functions.

To emphasize it again, the most related institutions and their relationship are showed in figure 4.

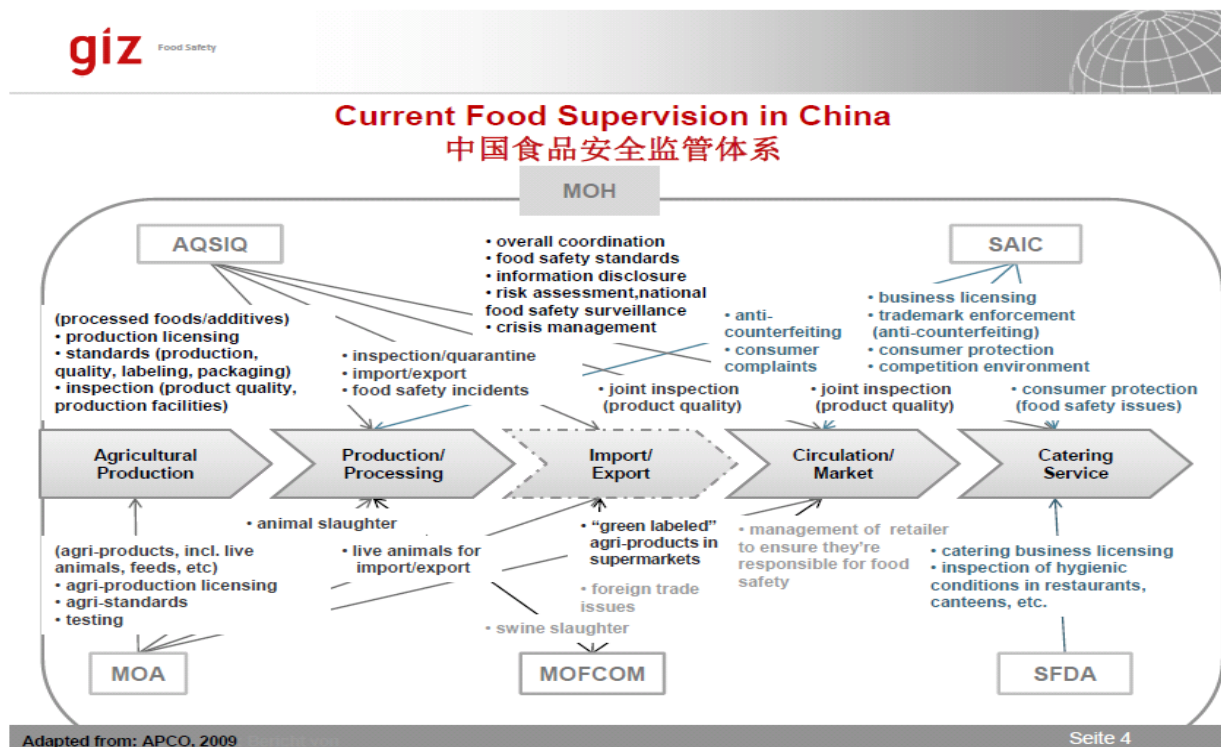


Figure 4. Current food supervision in China (<http://www.giz.de/>)

3.2 Important sectors and their responsibilities

The major central departments of food safety supervision shows in figure 4 - the Ministry of Agriculture, the State General Administration of Quality Supervision, Inspection and Quarantine, the Ministry of Health, the State Administration for Industry and Commerce, the State Food and Drug and their food safety regulatory functions are as follows:

3.2.1 Ministry of Agriculture(MOA)

Ministry of Agriculture (MOA) is the component departments of the State Council in charge of agriculture and rural economic development. The functions of Ministry of Agriculture in the food safety supervision are mainly reflected in the regulation of primary agricultural products. The main functions are as follows:

- To develop the agriculture industry technical standards and organize the implementation, organize draft farming, animal husbandry, fisheries, township laws and regulations.
- To organize formulate agriculture industry draft laws and regulations;
- The protection of the organization and implementation of the agricultural industry products and pollution-free green food quality supervision, certification and new agricultural plant varieties;
- The organization and coordination of seeds, pesticides, veterinary drugs and other agricultural inputs, monitoring, verification and enforcement supervision and management of product quality;
- The drafting of the draft laws and regulations of the Animal and Plant Health and Quarantine, organizations Veterinary Medical Administration, veterinary Pharmaceutical Affairs drug test work; organize and supervise the immunization of domestic animals and plants, and quarantine work, post epidemic and organizations extinguished.

3.2.2 General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China(AQSIQ)

In April 2001, the State Council merged the State Bureau of Quality and Technical Supervision and the State Administration for import and export Inspection and Quarantine Bureau, then format the State Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ). The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China State Council is in charge of national quality, metrology, import and export commodity inspection, import and export health quarantine, import and export animal and plant quarantine, certification and accreditation, standardization, and institutions directly under the exercise of administrative law enforcement functions.

The State AQSIQ is in charge of organization of draft, develop, publish and implementation of the relevant aspects of quality supervision, inspection and quarantine of the laws and regulations; guidance and supervision of quality supervision, inspection and quarantine of the administrative law enforcement work, and also be responsible for technical regulations relating to the work of the National quality supervision, inspection and quarantine. The main functions of AQSIQ on food supervision are as follows:

- The formulation of national standards of food, the food industry production standards intended;
- The management of the domestic food industry production, food quality and State Administration of quality supervision, inspection and spot checks, the implementation of the food industry production license system;
- The organization and implementation of the import and export food safety, health, quality supervision and inspection and supervision and management, management, import and export of food production, processing units health registration, management of export enterprises external sanitary registration.

3.2.3 Ministry of Health(MOH)

The Ministry of Health is responsible for the country's health, to ensure the health of the people, and to prevent the spread of infectious diseases. Specifically, in the area of food hygiene the Ministry of Health has the following duties:

- The organizations to develop a national quality management standards of the food and health-related products;
- The implementation of the process of production and sales of consumer food sanitation license work;
- The organization and implementation of food national health supervision and sampling work in accordance with the law.

The basic works mentioned above are done by the two most important institutions of the Ministry of Health - the Health Inspection Division of the Ministry of Health and the China Disease Prevention and Control Center.

Enforcement Oversight Division of Health of Ministry of Health is in charge of the exercise of the executive body of the health supervision and law enforcement functions. Its major areas of work: the management of health standards and technical specifications, health inspection, admissibility and assessment of health permits, inspectors, food, drinking water, cosmetics, disinfection products and other health supervision.

China Disease Prevention and Control Center is an agency of the leadership of the Ministry of Health, is the implementation of the government-run public service institutions for disease control and prevention and public health management and service. Nutrition and Food Safety Agency is a professional organization of the China Disease Prevention and Control Center, as well as the national technical guidance center of nutrition and food safety, the nutrition and food Safety business. The main duties in the field are: establish sound of food borne illness and food contamination monitoring system, nutrition and food laboratory quality control system, as well as nutrition and food safety control technology, and to carry out the work of popularization and

application; organization and commitment to the development of the National Institute of Nutrition and Food Hygiene, standards, testing methods and technical specifications; and to carry out the work of a variety of food and raw materials inspection, identification, nutrition, safety, functional evaluation and technical arbitration

3.2.4 State Administration for Industry and Commerce(SAIC)

State Administration for Industry and Commerce is the agency directly under the State Council which in charge of market supervision and management, and administrative enforcement. Its functions related to food safety regulatory are as follows:

- Give license to: engaged in the production and operation of enterprises of all types, other entities and individuals, including foreign-invested enterprises and its resident representative office approved the issue related business license, respectively borne by the Enterprise Registration Board and the Foreign Investment Enterprise Registration Bureau;
- Organization the oversea food market trading behavior, organizations that oversee the circulation of goods quality organization investigate counterfeiting and other illegal activities, to protect the operators, the legitimate rights and interests of consumers, borne by the Bureau of Consumer Protection in accordance with the law;
- In accordance with the law on food advertising supervision and management of the investigation of false advertising and other illegal activities, by the advertising supervision division to assume the functions of this part.

3.2.5 State Food and Drug Administration (SFDA)

To strengthen the supervision of food safety for the protection of people's health and safety, the State Council, on the basis of the State Drug Administration, format the State Food and Drug Administration (SFDA), formally established in April 16, 2003. The SFDA site Food Security Coordination Division and the Food Safety Supervision Division. SFDA is comprehensive supervision of the State Council of food, health care products, cosmetics safety management and competent drug regulatory. It is responsible for pharmaceutical research, production, distribution, and use of administrative supervision and technical supervision as well as the food, health products, cosmetics safety management supervision and coordination, and legal organizations to carry out major accident investigation; responsible for the approval of the health care products.

Its functions related to food safety are as follows:

- The organization relevant departments of the drafting of laws and administrative regulations of food and health products safety management, comprehensive supervision policy, work planning and supervising the implementation, undertake research, coordinating unified food safety

standards, the organization and coordination of relevant departments to bear the food and health products safety supervision

- According to the organization to carry out the investigation and handling of food, health products of major accidents and emergency rescue organizations to coordinate and cooperate with relevant departments to carry out the safety of major accidents;
- integrated and coordinated the testing and evaluation of the safety of food and health care products, collect and aggregate food and health products safety information, analysis, forecast the security situation assessment and prevention of food safety risks that may occur.
- integrated and coordinated the testing and evaluation of the safety of food and health care products, collect and aggregate food and health products safety information, analysis, forecast the security situation assessment and prevention of food safety risks that may occur.
- integrated and coordinated the testing and evaluation of the safety of food and health care products, collect and aggregate food and health products safety information, analysis, forecast the security situation assessment and prevention of food safety risks that may occur.
- Integrated and coordinated the testing and evaluation of the safety of food and health care products, collect and aggregate food and health products safety information, analysis, forecast the security situation assessment and prevention of food safety risks that may occur.

3.3 Possible problems and future trends

Even with the new law, the food-safety situation in China remains grim, like the recycled cooking oil incident in 2010, benzoyl peroxide flour incident in 2011. The Chinese government is still facing many challenges:

- Five ministries are responsible for food safety supervision. There is a lack of policy coherence. The approach "from farm to fork" is hard to be achieved;
- Lack of coordination mechanisms between central and local governments; country's total surveillance capacity remains unknown;
- Insufficient implementation of food safety standards, regulatory loopholes remain;
- Food safety regulatory functions are still overlapping which makes regulatory coordination difficult;
- The functions of food supervision institutions are still not clear; some overlapping functions are still present, and so as some "blind spots" .
- etc.

Dealing with these problems and more severe food safety situation, the State Council of China put forward a new institutional reforms and functional transformation program in March, 2013.

The program proposes integration of the Food Safety Committee Office duties, Food and Drug Administration duties, AQSIQ production aspects of food safety supervision and

management responsibilities and SAIC circulation of food safety supervision and management responsibilities, then give these responsibilities to a new built administration- the State Food and Drug Supervision Administration. Meanwhile, the industrial and Commercial Administration, Quality and Technology Supervision Department's food safety supervision and management teams and inspection agencies are about to be transferred into supervision and management departments for food and drug.

The Program put forward that the State Council Food Safety Commission would retain, and the Commission's daily work would be done by the Food and Drug Administration. While, the Food and Drug Administration and Food Safety Office would be revoked.

There are also some changes that would to clarify the duties of the other related administrations e.g. the Ministry of Health and Ministry of Agriculture. The future trends of the institution framework work would look like figure 5.

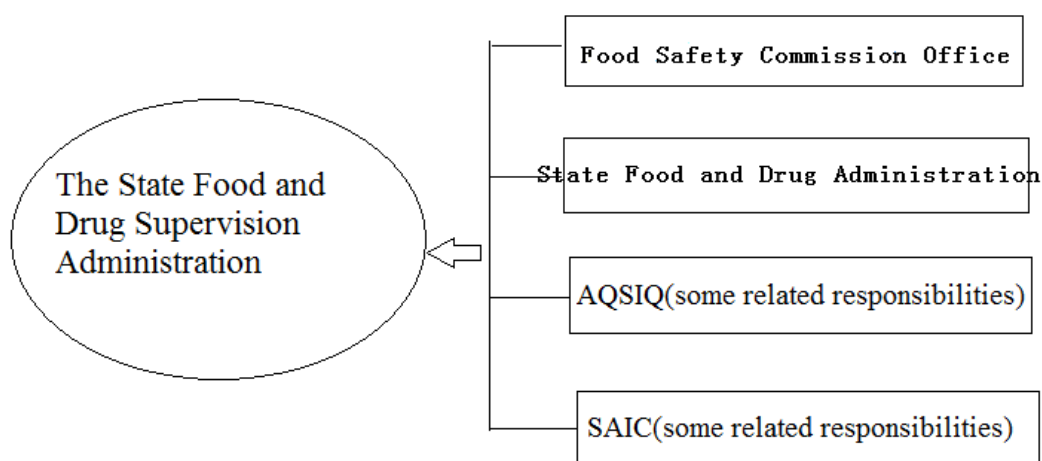


Figure 5. The future reform of Chinese food supervision system.

4. Overview of Chinese Food Safety Law

On February 28, 2009, China's National People's Congress Standing Committee passed the first comprehensive Food Safety Law. The Food Safety Law took effect on June 1, 2009. The enactment of Food Safety Law is of great significance on ensuring food safety and protecting public health.

4.1 From Food Sanitation to Food Safety

Generally speaking, food safety legal system consists of the safety and quality standards, safety and quality testing standards and relevant laws, regulations and normative documents which related to food production, management, distribution and other aspects (Xiao Z., 2011). Turning to the current situation of Chinese food safety legal system, Food Safety Law works as the leading, and other laws and regulations, such as Food Sanitation Administrative Punishment Law, Food Hygiene Supervision Program, Consumer Protection Law and Communicable Disease Prevention Law, work jointly in the system. The 2009 promulgated Food Safety Law and Food Safety Law Implementation Regulations are the most comprehensive laws about food hygiene and safety. Chinese food safety legal system is showed in figure 6.

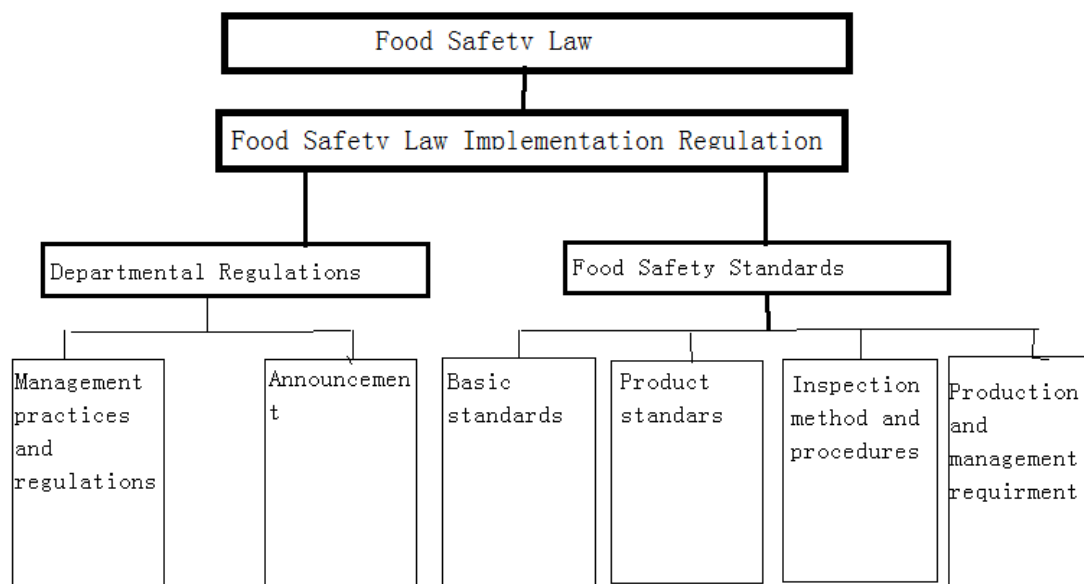


Figure 6. Chinese food safety legal system

Food Safety Law Implementation Regulation is designed to further clarify that the business has the first responsibility of food safety. The regulation also strengthens the prevention and control during producing and operating processes. The role of the Implementation Regulation is the explanation and supplement of Food Safety, it also clarifies the responsibilities each administration has during food management further. There are 64 articles in the Implementation

Regulation, these articles mainly covers the following three aspects:

- The Implementation Regulation clarifies the Business' management responsibility for food safety. Implementation Regulations regulates the Business mainly from two aspects: strengthening internal management and ensure the control of food production process.
- Strengthen the coordination of food safety supervision work.
- Clarified the details of the regulations of the Food Safety Law. To make the Food Safety Law operable, the Implementation Regulation gives the detailed explanations of how the works would be arranged, for example, the Implementation Regulation describes when should the risk assessment program start, and refines the recall system, etc.

While the Implementation Regulation guided the operation of Food Safety Law, departmental regulations and food safety standards provide the specific measure for the articles from management and technical perspectives.

Table2: The structure of Food Safety Law

Food Safety Law			
General Principles			
Requirements for food business	Rights and responsibilities for consumers	Responsibilities for non-government agencies	Power for food supervision system(Government)
Food standards setting.	Food standards setting.	Publicity and education.	Food standards setting and management.
Product: Emphasizes the requirements for: Food Additives Traditional Chinese Medicine Noble Ingredients	community supervision	community supervision	Risk monitoring and assessment
Process: ● Production license ● Production:: Encourage using GMP/HACCP Testing ● Trade: Food Preservation Traceability Withdrawal recall	Damage		Food inspection and tests No grant exemptions on food inspection.
Communication: Labeling Advertising			Incident management
			Enforcement:

			General controls Criminal liabilities
--	--	--	--

As introduced in Chapter 2, and it is also mentioned in all reports related to the emerge of Food Safety Law, that the 2004 Anhui Fuyang “Big head Babies” crisis contributed the revise of Food Sanitation Law. This revise can be easily identified with an article specially regulating the products for babies and children. Yet, the revised Food Sanitation Law had not stopped the outbreaks of food safety issues again and again, such as the Sudan dyes incident⁴, carcinogenic PVC cling film incident, benzene exceeded Food packaging bags incident, and this situation led the draft revision of Food Sanitation Law changed into the first draft of Chinese Food Law in 2007. This show the different focus of Chinese Government to food: Food Sanitation Law pays more attention to the food hygiene problem, while the Food Safety Law shows its aim on the potential hazards of the food (mainly after eating). Since 2007, the draft of Food Safety Law had been revised for three times which lasted for three years and finally was enacted as the Food Safety Law in 2009.

There are ten chapters in Food Safety Law, namely General Provisions, Surveillance and Assessment of Food Safety Risks, Food Safety Standards, Food Production and Trade, Inspection and Testing of Food, Food Import and Export, Response to Food Safety Incidents, Supervision and Administration, Legal Liabilities and Supplementary Provisions

The simple structure of Food Safety Law is showed in table 2, which refers to the idea of “The structure of food law” from European Food Law Handbook by Bernd van der Meulen and Menno van der Velde.

It can be showed clearer in the comparison of structures of the Food Safety Law and Food Sanitation Law that the huge changes of the way Chinese government deals with food safety issues:

- The establishment of Food Safety Committee. Before the Food Safety Committee was established, the food safety related departments didn’t have a leading department in common, and the coordination of these departments always met with resistance. This new supervision system is showed in article 4 of the Food Safety Law:

“The State Council shall establish a Food Safety Committee whose responsibilities will be determined by the State Council.

The executive department of health under the State Council is responsible for the overall food safety coordination, risk assessment of food safety, formulation of food safety standards, release of food safety information, development of accreditation criteria for food testing agencies and testing specifications, and the organization of investigation of and response to major food safety accidents.

The regulatory departments for quality supervision, industry and commerce administration, and food and drug administration under the State Council shall regulate food production, food distribution, and catering service, respectively, in accordance with this law and the responsibilities identified by the State Council.”

- Food safety risk monitoring and assessment sections were added. This section reflects the prevention-oriented approach of food safety risks, which

⁴ Sudan dyes incident: This food safety incident started in 2005 when many food products in China were checked to have Sudan dyes which was not allowed to be used in food production.

was deeply affected by the food issues these years. But unfortunately, there are no corresponding penalties for this part.

- Setting and integration of standards. The Food Safety Law defines the department who develops the standards, and also arranges the old standards which sometimes conflicting each other.

The executive department of health under the State Council shall be responsible for developing and publicizing national food safety standards and the standardization administrative department under the State Council shall provide the national standard number. The limits of pesticide residue and veterinary drug residue in food and their testing methods and procedures shall be developed by the executive department of health and agriculture under the State Council.

The testing procedures for slaughtering livestock and poultry shall be developed by the competent authorities under the State Council in conjunction with the executive department of health under the State Council.

In case a product's national standard involves the national food safety standard, it shall be consistent with the national food safety standard.(Art.21, FSL)

- The improved requirements for food production and operation. This part is the core part of the food professional law. Food Safety Law Article 27 set forth requirements for food production. Comparing to the article 8 of Food Sanitation Law's Hygiene requirements, Food Safety Law develops the requirements for the process of food producing and operating.

Any food production or trading activities shall comply with food safety standards and the following requirements:

1) Have appropriate places for raw material treatment and food processing, packaging, and storage that are suitable for the variety and quantity of the food being produced or traded, make the environment tidy, and keep a required distance away from toxic or hazardous places, and other contamination sources.

2) Have appropriate production or trading equipment or facilities that are suitable for the variety and quantity of the food being produced or traded, have appropriate equipment or facilities for disinfection, changing clothes, cleansing, lighting, ventilation, anticorrosion, dust-proofing, fly-proofing, rat-proofing, pest-proofing, washing, and drainage of wastewater, and deposit of garbage and wastes. ... (Art. 27, FSL)

The processes by which food is produced or marketed shall conform to the requirements for hygiene stated below:

1)The environment inside and outside any food production or marketing establishment shall be kept clean and tidy; measures shall be taken to eliminate flies, rodents, cockroaches and other harmful insects and to remove conditions for their propagation; and a prescribed distance shall be kept from any toxic or harmful site.

2)An enterprise engaged in food production or marketing shall have workshops or other premises for the preparation of raw materials and for processing, packing and storage that are commensurate with the varieties and quantities of the products handled. ... (Art.8, Food Sanitation Law)

- Food Safety Law clearly defines that no exemption food products. Food Safety Law clearly defined that the administrative departments have to buy

the test samples, and shall not charge any fees to the business, and the detection costs should be paid by the administrative departments. While the Food Sanitation Law just illustrates the departments who should take the testing responsibility.

The food safety regulatory departments shall not grant exemptions on food inspection.

The executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above shall conduct sample testing regularly or irregularly on food products. They shall pay for the samples to be tested and shall not collect testing fees.

In the event that a food testing is needed while performing their regulatory duties, the executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above shall entrust and pay for food testing agencies compliant with the requirements of the Law to conduct the food testing. In the case of disputes over testing results, re-testing shall be conducted in accordance with the law. (Art. 60, FSL)

The health department of the State Council and the health authorities of the people's governments of the various provinces, autonomous regions, and municipalities directly under the central government may, if the need arises, assign competent units as units for the inspection of food hygiene; these units shall carry out food hygiene inspection and provide inspection reports (Art. 36, Food Sanitation Law).

- There's one chapter in Food Safety Law regulates the disposal of food safety incidents, namely Chapter 7- Response to Food Safety Incidents, about which Sanitation Law only have one sentence. The Food Safety Law provides the legal responsibility and procedure for each level of the supervision system during the incident/crisis.
- From the punishment and liability point of view, Food Safety Law increases the baseline of penalty amount, raises the level of the administrative sanctions, and also clarifies that the person primarily responsible for the food incident shall not engage in any food safety management work in a certain time limit. The most impressive feature for this chapter (Chapter 9 Legal Liabilities) Food Safety Law is article 96 and 97 which gives the consumers the basis of the amount of the claim and the priority to received civil compensation.
- In the Chapter of Supplementary Provisions of Food Safety Law, several new definitions have been explained: a new definition of food safety was proposed, As well as that of food poisoning, food borne diseases and food safety incidents.

Food Safety means the assurance that the food is nontoxic, harmless, and compliant with reasonable nutritional requirement, and will not cause any acute, chronic and potential hazards to human health. (Art. 99, FSL)

Except all these changes, there are still some detailed supplements and improvements to the remained food sanitation articles in Food Safety Law.

There is an interesting part in the structure of Food Safety Law which shows the content concerns consumers. Unlike the way General Food Law of Europe did with consumers, Chinese

Food Safety Law not only put consumers' health and life as the aim, but also defines their rights on community supervision (art.10 FSL), food standards setting (art. 23 FSL), and asking for compensation when they suffered damages (art.96 and art.97 FSL).

“Any organization or individual has the right to report any act during food production and trade that violates this Law and has the right to inquire food safety information from relevant agencies and provide comments and suggestions about food safety regulation.(Art.10, FSL)”

This article is about the community supervision from four aspects (only consumers are included here): first of all it protects the rights of supervision of the consumers; then, this article declares the right to report violations of Food Safety Law in production and operation process; thirdly, it confirms the right of consumers towards food safety information from the related authorities; finally, it encourages the consumers to give comments and suggestions for food safety supervision and management works.

...The formulation of national food safety standards shall base on the results of food safety risk assessments and take full account of the results of quality and safety risk assessments for edible agricultural products, shall reference to the relevant international standards and the results of international food safety risk assessments, and shall solicit extensively the opinions from food producers, traders, and consumers.(Art.23, FSL)

It is clear the consumers can give their opinion to the setting of standards, and this may be achieved through social surveys.

Anyone in violation of this Law causing personal or property damage or other damages shall be liable for compensation. When any manufacturer produces any food not conforming to the food safety standards or sells any food knowing its nonconformity with the food safety standards, the customer can demand the manufacturer or the seller to pay a penalty 10 times of the paid amount, in addition to the compensation for the loss thereof. (Art.96, FSL)

Anyone in violation of this Law shall be liable for civil compensation and payment of penalties and fines, and when the assets are not sufficient for payment, the civil compensation shall be executed first.(Art. 97, FSL)

Article 96 FSL is about the civil liability provisions, and on the one hand it says that “anyone in violation of this Law causing personal or property damage or other damages shall be liable for compensation”. There might be three acts should bear the liability in violation of the regulations: First of all, when the business' illegal production and operation causes consumers' personal and property damage, the business has to pay the compensation for losses of consumer's property and personal injury . Secondly, individuals or groups who fabricates and spreads false facts which damages food business reputation and cause losses must bear civil liabilities according to the law. These liabilities include stopping abuse the reputation, rehabilitation, eliminating the effects of apology and compensation for loss. Thirdly, food inspection agencies issue false inspection reports illegally, and cause damages to the party concerned, must commitment the corresponding liability (Xiaowen y., 2012).

On the other hand, Article 96 FSL also stipulates that “the customer can demand the manufacturer or the seller to pay a penalty 10 times of the paid amount, in addition to the compensation for the loss thereof”. This provision is about the punitive compensation liability food business assumes. The punitive Compensation is the compensation other than the compensatory damages for the actual loss of injured party, namely consumers in article 96, FSL. The implementation of this punitive measures not only can punish and prevent corresponding

behaviors, especially deliberate and malicious acts; also can ease the victim's negative emotions, and fully compensate the victim's material and spiritual losses.

Article 97 of the Food Safety Law identifies the priority principle of civil liability. It is quite often in current practice that the offender's property is insufficient to pay for the civil compensations and fine at the same time, and the fine for the departments usually has priority, however no compensations for the tort victims are paid. The result is the victims do not get their compensations, and their rights have not been properly protected. Therefore, the establishment of the priority principle of civil liability safeguards the legitimate rights and interests of victims, namely consumers in food safety issues.

4.2 Four elements of Food Safety Law

4.2.1 Aim

This Law is formulated to assure food safety and safeguard people's health and life. (Art.1, FSL)

Comparing to the aim of Food Sanitation Law “ensuring food hygiene and preventing food contamination and harmful substances from causing injury to human health in order to safeguard the health of the people and improve their physical fitness”, and the aim of the draft of Food Safety Law(2008) “to prevent, control and eliminate food contamination and hazards to human to prevent and reduce the occurrence of food-borne diseases, to assure food safety, to safeguard people's life and health, and to enhance people's health”, Food Safety Law has a larger focus on safety, which include the process from ‘farm to fork’. Article 1 FSL clearly defines the legislative purpose of Food Safety Law is “safeguard people's health and life”.

As living standards increased, the public enhanced their concerns about the safety of food greatly. However, in recent years, food safety issues have occurred frequently in China such as the milk powder incidents. Thus, food safety issues have seriously threatened the public's health and life. Food safety issues also spark the public's trust crisis for the food safety on the market, shock social stability and economic development. More seriously, these food safety issues may have negative impacts on the “made in China” food products in the global market. Therefore, the development of the aims of Chinese food legal system has great significance for assure food safety and protect public.

4.2.2 Scope

The following business activities carried out within the territory of the People's Republic of China shall abide by this law:

- 1) Food production and processing (hereinafter referred to as “Food Production”); food distribution and catering service (hereinafter referred to as “Food Trading”);
- 2) Production and trading of food additives;
- 3) Production and trading of packing materials, vessels, detergents and is infectants for food, as well as utensils and equipment used in food production and trading (hereafter

referred to as “Food-Related Products”);

4) Food additives and food-related products used by food producers and traders;

5) Safety management of food, food additives and food-related products.

The quality and safety management of primary agricultural products for consumption (hereinafter referred to as “Edible Agricultural Products”) shall abide by the Law of the People’s Republic of China on Quality and Safety of Agricultural Products. However, this Law must be observed when developing quality and safety standards and releasing food safety information on edible agricultural products. (Art.2, FSL)

This article relates to the scope of the Food Safety Law. These provisions about the scope of food safety law, Compared with the provisions of the Food Sanitation Law, the scope has been significantly expanded, moreover, the regulations linked to Agricultural Product Quality Safety Law has been added. This part is particularly notable in three areas:

- Production and management of food additives should apply to Food Safety Law. The original Food Sanitation Law only in the Article 11 proposes the sanitary requirements for food additives using stage. While the Food safety Law has made more stringent requirements for the whole production and operation process of food additives, for example not only food additive producers, but should traders’ behavior follow the requirements of food safety laws, follow its requirements for risk assessment and management and food safety standards.
- Production and management of food-related products should apply to Food Safety Law. Food-related products are packing materials, vessels, detergents and disinfectants for food, as well as utensils and equipment used in food production and trading. Packing materials and vessels for food products are products packing and holding food or food additives using paper, bamboo, wood, metal, enamel, ceramic, plastic, rubber, natural fibers, synthetic fibers, glass or other raw materials, as well as the coatings direct contact with food or food additives. Detergents and disinfectants for food are substances directly used for washing or disinfection of food, of tools and equipment used in food production and operation, and of food packaging materials and containers.
- The regulations linked to Agricultural Product Quality Safety Law (also called Law of the People’s Republic of China on Quality and Safety of Agricultural Products) have been added in the Food Safety Law, and in this way, the repeating and conflicting problems for the cross legal scope have been avoided. This article clarifies the application of edible farm food safety law in both Agricultural Product Quality Safety Law and Food Safety Law, namely the quality and safety management of agricultural primary products for food should be under the control of Agricultural Product Quality Safety Law, while the enactment of edible agricultural products quality and safety standards and the announcement of information about the safety of edible agricultural products should comply with Food Safety Law. Moreover, such provisions can guarantee quality and safety of edible agricultural products and the “from farm to fork”

supervision better.

4.2.3 Definitions

For the purpose of this Law, the following terms shall have the meaning defined hereunder:

Food means any substance that has been processed or not processed that is suitable for eating and/or drinking, including substances used as food and medicine, excluding substances solely used as medicine.

Food Safety means the assurance that the food is nontoxic, harmless, and compliant with reasonable nutritional requirement, and will not cause any acute, chronic and potential hazards to human health.

...(Art. 99, FSL)

Article 99 FSL about the definitions is in the last chapter in Food Safety Law, several important terms are defined, such as food, food safety, pre-packaged food, food additive, food container and packaging material, food tools and devices, food detergent and disinfectant, shelf life, food borne disease, food poisoning and food safety incident.

Based on the definition, the food additive is “any synthetic or natural substance used to improve the quality, color, fragrance, flavor of food, and used to add to the food or put together with the food for corrosion proof, keeping fresh or processing technology requirements”. According to the requirements of food additives health standards (GB2760), there are twenty-two categories of food additives which are allowed to use in food.

Food poisoning is one of the most common and most typical food-borne diseases. In Article 99 FSL, food poisoning is defined as “acute, sub-acute or other food-borne diseases that are caused by eating food contaminated by or containing poisonous or hazardous substances”. Among all food borne diseases, food poisoning is distinguished by non-infectious acute, sub acute disease which is caused by food contamination, eating poisonous plants and animals and the ingestion of toxic and harmful non-food as food. Types of food poisoning are: bacterial food poisoning, mycotoxins and moldy food poisoning, chemical food poisoning and poisonous plant and animal poisoning.

Food Safety Incident means any incident that may be caused by food poisoning, food borne diseases, food contamination, or other incidents arising from food and hazardous to human health.(Art.99, FSL)

In other words, food safety incidents are mainly food borne diseases and food poisoning occur in food cultivation, breeding, production, processing, packaging, storage, transportation, distribution, consumption and other aspects that lead to death or illness of the public or may pose a potential hazard to human health. According to the National Plan for Emergency Response to Food Safety Incidents, based on the nature, the extend of endangering and scope, food safety incidents divided into four levels, namely especially major food safety incidents, major food safety incidents, greater food safety incidents and general food safety incidents.

4.2.4 General principles

There are no provisions for general principles in Food Safety Law; however the principles discussed here are concluded by several papers' relevant descriptions, aiming to show some basic characteristics of Food Safety Law.

- Staging regulatory principles. This principle is the main way food safety supervision system works - every stage from farm to fork like food production, processing and trading, is under the supervision of an executive department (Hui J., 2011). The Specific content and direction of development of this principle has been discussed in chapter 4.
- Information disclosure principle. Information disclosure principle refers to the Guideline that any information related to food safety, apart from the information shall not be disclosed by law, should be publicly announced by food regulatory authorities and food producers and traders, to achieve the public right (Huajiang Y., 2010). If the Food safety information has not been published or the information announced is unreasonable or incomprehensible, it may also cause consumers' unnecessary panic. Since food safety relates to the safety of people's lives and health, food safety information announcement attracted widespread attention. Food safety information mainly include the overall situation of food safety, standards, monitoring, supervision and inspection (including sampling), risk assessment, risk alarming, incident and treatment information and other food safety related information.

First, Food Safety Law clarifies the main bearer of the responsibility of information disclosure. Food safety supervision and management departments are going to disclose information, and the information should be accurate, timely and objective. Based on the content of information on food safety and its importance, the department released information mainly are: The Ministry of Health is responsible for the overall situation of national food safety announcement, food safety risk assessment information and food safety risk alarming information, major food safety incidents and processing information, as well as other important food safety information and the information identified by State Department. Provinces, autonomous regions and municipalities health administrative departments, namely the provincial health department, municipal health department, are responsible for the unified announcement of the information influencing a specific area, such as food safety risk assessment information and food safety risk alarming information, and major food safety incidents and process information of the certain area. Agricultural administration, quality supervision, industry and commerce administration, food and drug supervision and management departments, mainly the executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above, should announce the department's daily supervision and

management information of food safety in accordance with their respective responsibilities.

Secondly, Food Safety Law establishes the food safety information reporting and notification system. As defined in Food Safety Law, article 83: Upon receiving information requiring central disclosure pursuant to Article 82 (1), the executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall immediately report to their superior departments, which then shall immediately report to the executive department of health under the State Council, and, if necessary, they may directly report to the executive department of health under the State Council, and the executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall notify each other of any food safety related information.

- Precautionary principle. Precautionary principle, which is a principle of action, is the adoption of temporary measures in the current time in order to prevent the occurrence of damage which is likely to occur in future damage to health or to the existing scientific evidence is inadequate to prove or damage that may occur to existing scientific evidence is inadequate to prove. Food safety precautionary principle intends to focus more on the prevention of food safety incidents than the afterwards regulations, this principle shows an important change on the regulatory concept of food safety issues. Precautionary principle and the risk analysis is the corresponding principles, they are for the risk, rather than undermine. Risk is the possibility of damage occurring in the future, once this possibility becomes a reality, it is the actual damage. The purpose of this principle is not to prevent the risk to zero, because in terms of the actual situation, even measures based on the precautionary principle had been taken, it would be impossible to eliminate the current possibility of possible future risks.

Precautionary principle reflect the following aspects in Food Safety Law: First of all is the food production and trading license system. People or group engaged in food production, food distribution and food service, should obtain the corresponding food production license, food circulation license and food service license. China also adopts the food additive production license system. Food additive production license application should follow the conditions, procedures in accordance with the relevant national industrial products production license management regulations. Furthermore, food additive has to demonstrate its technically necessary and prove safe and reliable through a risk assessment before allowed to be used.

Secondly is the system of food safety standards. Development and implement of stringent food safety standards are the prerequisite for the

preventive measures. Food safety standards are enforceable standards, except food safety standards, no other mandatory standards for food shall be set. Food safety standards are divided into national standards, local standards and enterprise standards, and the results of food safety risk assessment should be formulated or revised scientific basis for food safety standards. As regulated in Food Safety Law: “in the absence of a national food safety standard, a local food safety standard may be developed”, “in the absence of a national or local food safety standard, the food enterprise may develop an enterprise standard as this basis for production” .

Thirdly is the mandatory food safety inspection system. Untested or tested unqualified food is not allowed to sell. The manufacturers which do not have the self-test conditions are forced to implement commissioned the inspection.

Fourthly is the food safety labeling system. Food labels are identifications on the product package. Food labels provide information on the intrinsic quality of the food, nutritional information, time information and eating guidance and other information, which are important basis for consumers to choose foods. Food labels should be obvious, easy to identify and clear to read, while the food and labels should be consistent.

- Risk analysis principle. Risk analysis principle refers to the assessment of the risk food may have, then according to the degree of risk, appropriate risk management measures are taken to control or reduce it. And the ensuring of good risk communication among the risks related parties in the risk assessment and risk management process (National Standardization Management Committee, 2006). This principle is the manifestation of scientific management of food safety issues, as well as the important basis for the development of food safety control measures and food safety standards. The risk analysis principle has already been an internationally recognized food safety management principle. Risk analysis is the scientific assessment of the known or potential adverse effects on the health when human beings exposure to food borne hazards. It is the systematically organization of scientific and technical information and uncertain information, aiming to answer specific questions about the health risks assessment.

In China, Agricultural Product Quality Safety Law and Food Safety Law both clearly define the risk precautionary principle. The legal mechanisms to realize the risk analysis principle is mainly to fully implement the relevant laws and regulations and a range of supportive measures. The establishment of food safety risk monitoring and assessment systems is first proposed in Food Safety Law, which also shows the altitude towards food safety management of Chinese government.

First, the Food Safety Law creates a food safety risk monitoring system. Food Safety Law clarifies the food safety risk monitoring system on the basis of the domestic and foreign advanced experiences. Food safety risk

monitoring system is the general term for systems relate to food safety risk monitoring and management department, testing organization, testing content, monitoring plans, the detection range, monitoring results, etc. Food safety risk monitoring is the assessment, early warning and detection of edible safety for a certain food. It is the basis and prerequisite, as well as the data sources for food safety risk assessment. In the word food safety risk monitoring system, food safety risk means any acute, sub-acute or chronic hazards of human health cause by food borne illness, food contamination and harmful factors in food or food additives, food packaging, etc(Nan N., 2012).

Secondly, the Food Safety Law establishes the food safety risk assessment system. Food safety risk assessment system refers to the system carries out the scientific assessment of the possible adverse health effects which can be caused by the biological, chemical and physical hazards of food and food additives. Food safety assessment includes four basic steps, namely hazard identification, hazard characterization, exposure assessment and risk characterization. It is the scientific assessment using qualitative or quantitative manners for the potential side effects of human and animal health of food additives, contaminants, toxins and pathogens. That is, food safety risk assessment is based on the data collected by the food safety risk monitoring system and the reports from the public, by using toxicological data, pollutant residue data analysis, statistical methods, exposure assessment and related parameters and other system scientific steps, and finally determines the risk of certain hazardous substances in food.

4.3 Social repercussions and future trends

Food Safety Law is a remarkable development of Chinese legal and regulatory supervision system in the field of food. The enactment of many provisions has been greatly supported by the public as well as the media, such as the build of food risk monitoring and assessment system, the compensation right of consumers, the punishment of false advertising, etc. However, with the full implementation of Food Safety Law, some shortcomings have been gradually exposed. The Food Safety Law still faces many challenges:

- There is no corresponding penalty for the failure of food safety risk monitoring and assessment system. The basic responsibilities of food safety risk monitoring and assessment are almost all in the hands of national ministries, namely the government, but the supervision and punishment of this governmental work still lacks. Once an incidents of corruption of Drug Administration System just a few years ago appeared to be in the pre-production certification stage, when the producers applied the production permit to the related authorities. To avoid the situations like this to destroy the healthy functioning of the system, more detailed regulations

need to be set.

- For the food production and operation requirements, some of them need further supplements. Such as the article 27(9) of Food Safety Law says: "Use water that complies with the national hygienic standard for drinking water", and the responsibilities changes made the situation even more complex: the supervision of catering services was transfer from the health administrative departments to food and drug administration, so in this way drinking water used in cater services is supervised by the food and drug administration, however drinking water is still regulated by the health administration. If there is a contaminated food safety incident cause by the polluted drinking water, which department is in charged. Details like this need to be further discussed.

Furthermore, in the administrative licensing aspect, article 29 declares that "farmers are not required to obtain a food distribution license when selling edible agricultural products produced by themselves". This article shows the care for farmers, however there might be some problems when put into practice, like how to identify the sellers are farmers, and how to identify the products are produced by themselves, etc.

- When it turns to the response to food safety incidents part, Food Safety Law declares in article 71 that "Any organization or individual shall not conceal, lie, delay, or intentionally destroy the evidence of any food safety accident". However it is quite common in real life that the leftover foods of the restaurant which may cause the food-related symptoms of the consumers have been drained and even the tableware have been disinfected before the supervisory staff go there for obtaining evidence for investigations. In this way, how to identify the evidence are intentionally destroyed? More details are still needed.
- Ten times compensation might be difficult in practice (Xiaowen Y., 2012). This penalty is one of the most talked about provisions in Food Safety Law and it shows the protection of consumers' rights, however when it put into practice, the article 96 and 97 are not conducive to private litigation. There are several reasons for this: Firstly, most food safety hazard to consumers is recessive and long-termed, unless a serious health problem to themselves or family members directly cause by the food safety hazard, the consumers wouldn't participate in legal disputes. Secondly, the ten times punitive compensation regulated by Food Safety Law is ten times of the value consumers pays for their food, but not all the losses consumer suffered from the incident. However the food prices consumers paid are always high, Ten times the amount of compensation appears to be negligible compared to the cost of litigation. Etc. So monitoring system of the private litigation for food safe still need further improvement.
- Etc.

5. Case study for the development of Chinese food safety management

Chinese food safety issues are constantly reported in recent years, even with the new legal and supervision system. Comparing with the legal system of Europe, the laws and regulations in China do not have the case law as EU legal system. However, the cases are important for the study of food safety legal system in practice. Therefore, three cases in the last decade are chosen to be discussed in this chapter for their serious impact on the public health as well as the development of the laws. These examples are mainly summed up through the related books, reports and websites, and they are combined with the explanation of the related articles of Food Safety Law and other laws and regulations.

5.1 Anhui Fuyang “Big head Babies” case

Background:

The incident of more than 10 infants deaths due to the consumption of inferior milk powder occurred in Fuyang, Anhui province, was reported by People’s Daily, one of the most authoritative and influential national newspapers in China, at 17 May 2004.

This incident aroused widespread concern. After investigation, the State Council investigation team confirmed that the malnutrition caused infant deaths due to the consumption of consumption of inferior milk powder were totally 12 cases; while the infant moderately malnutrition caused by the consumption of inferior milk powder were totally 189 cases in Fuyang. The investigations showed that these milk powder products were produced by more than forty producers such as small workshops which had no name or site, counterfeiting factories which used the brand name of other enterprises and the enterprises with all licenses, spreading in ten province and autonomous regions and municipalities. Then these products were transferred from the manufacturers to the wholesale markets or directly to the milk powder dealers, supermarkets and stores of the area. Most of these products are finally sold in the town and rural markets in Fuyang. Under the State Council investigation team’s unified organization, the illegal producing and selling of inferior milk powder had been severely punished according to law. There are 39 cases, allegedly selling substandard milk powder cases, that were investigated and prosecuted; four workshops for production and packing milk powder were forced to close; 47 people were under criminal detention; 59 people were retained for examination; 31 people were formally arrested; and 203 people were interrogated according to the law. The tracing scope of the procuratorate system for this incident covered four provinces, and fourteen officers of industry and commerce, technical supervision and health departments had been dismissed for malfeasance.

Discussion:

Anhui Fuyang “big head babies” incident was caused by the inferior milk powder. According to

the test results of the recycled milk powder by the Ministry of Health, Chinese Center for Disease Control and Beijing Center for Disease Control showed there were mainly three problems: the first is the inferior milk powder is with low protein and fat content, secondly is the content of trace elements, such as calcium, iron, zinc, etc., were very low, thirdly the use of the product label was incorrect. The results the State Council investigation team confirmed through examination of health were: the inferior milk powder seized in Anhui Fuyang were made from starch, sucrose and other inexpensive food materials replacing or partly replacing the milk powder needed, then flavored with flavor additives. The contents of proteins, fats, vitamins and minerals which were necessary Infant growth were far below the national standard in the tested milk powder. Long-term consumption of this milk powder would led to infant malnutrition, growth retardation and decreased immunity, complicating diseases and even death.

This incident exposed the shortcomings of Chinese food safety supervision system, mainly in the following points:

The first is the lack of communication between regulatory authorities. It was discovered during the investigation of this incident that before the State Council's investigation, Ministry of Health and Ministry of Commerce had dealt with these inferior milk powder product problems, but because of the information of one ministry is not available for the other, their management work resulting in ineffective.

Secondly is the supervision departments did not form a network. For example, the local business sector found an inferior milk powder seller in Fuyang, who had sold inferior goods several times, but every time the seller paid the punitive fines instead of legal penalty, and was not sent to the enforcement agencies. This kind of approach indulged the violations behavior of the producers and operators of inferior milk powder.

Thirdly is that the food safety supervision departments paid more attention to the approval and production license areas than the supervision of the process of food production and trading. The results showed that inferior milk powder manufacturers identified on the labels including seven non-existent and two canceled companies whose information were not record in the related supervision departments.

Anhui Fuyang "Big head Babies" case was the direct cause of the revise of Food Sanitation Law as well as the introduction of several other food safety management regulations and departmental regulations. However the problems for the supervision system of food safety had not been obviously improved before the implementation of Food Safety Law. Based on the traditional staging-management, Food Safety Law set a unified administration for all the food safety supervision departments- the Food Safety Commission, which is the highest guidance supervision department of the ministries.

5.2 Dumpling poisoning incident

Backgrounds:

Chiba, Japan, 22nd of January 2008, five family members of a family appeared vomiting, diarrhea and other symptoms of poisoning after consumption of frozen dumplings produced by Chinese Hebei Tian Yang Food Plant. The dumplings they cooked were tested to have high-toxic pesticide methamidophos whose content level was more than a hundred times of the related standard.

Meantime two other families in Japan were diagnosed food poisoning after eating the same product. Furthermore, these dumplings also exceeded the standards of methamidophos the standards. The explosive news was announced by the Japanese police in 29th of 2008, that the dumplings produced by Hebei Tian Yang Food Plant were tested to have High concentration of high-toxic pesticide methamidophos. Several similar cases had occurred in other parts of Japan and dumplings causing these incidents were all produced by Hebei Tian Yang Food Plant, and were produced at 1st and 20th of October 2007. These dumplings were imported by JT Food which is a subsidiary of Japan Tobacco Inc., then transferred to Cooperative Federation of life in Japan to sell.

Just after the incident on 2008, January 31, State Quality Inspection Administration sent a group of experts who had rushed to Shijiazhuang, Hebei Tian Yang Food Plant. The experts collected 30 samples from the products from the batch involved in the incident and also the adjacent batches, including dumplings, flour, cabbage, empty packaging bags, and dumpling packaging bags. These samples were handed over to China Inspection and Quarantine Science Institute for detections, and the result showed “no methamidophos”. On 2008, February 3, working group of State Quality Inspection Administration Import and Export Food Safety Authority took the flight to Japan for the investigation of the poisonous dumpling incident. They brought back the samples of the dumplings in Japan to China Inspection and Quarantine Science Institute for detections. After the joint reorganization of testing methods and testing equipment by the experts from China and Japan, the result showed that no methamidophos or dichlorvos was detected in the samples. In the morning of 2008, February 28, State Council Information Office held a press conference to introduce the Japanese dumpling poisoning incident investigation progress. They explained that the incident was not food safety incident caused by pesticide residues, it was an individual case. After two years of unremitting efforts, in March of 2010, the poisoning incident was identified as the case someone deliberately put toxic substances in food, and the criminal suspect had been arrested by Chinese police

Discussions:

This incident in the early 2008 had further aroused public concern about food safety in China, although subsided after the confirmation of the incident was artificial crime, it affected the image of Chinese food safety around the world. Just after this incident, in March of 2008, the second draft of Food Safety Law had come out.

The dumpling incident also aroused the importance of inspection and supervision of export food products. The food safety of export food are directly related to the consumer health and life of the imported countries, affects the business reputation and international competitiveness of Chinese food export enterprises as well as the political image of Chinese government in the international community. The inspection and supervision of export food products are not only needed by the maintenance of international merchandise trade order but also by the legal improvement of food safety supervision system. Moreover, referring to the Law of the People's Republic of China on Import and Export Commodity Inspection, article 2, “The State Council shall establish an Administration for Import and Export Commodity Inspection (hereinafter referred to as the State Administration for Commodity Inspection), which shall be in charge of the inspection of import and export commodities throughout the country. The local import and export commodity inspection authorities (hereinafter referred to as the commodity inspection authorities) set up by

the State Administration for Commodity Inspection shall be responsible for the inspection of import and export commodities within areas under their jurisdiction” .

China implements strict inspection and quarantine procedures for the import and export food, which are mentioned in Food Safety Law Chapter 6 and implemented and summarized by article 41 of Food Safety Law Implementation Regulation and Measures for the Safety Administration of Imported and Exported Food. At present, the import and export inspection and quarantine agencies implements the origin inspection system, namely “The consignee or agent of exported food shall apply for inspection to local inspection and quarantine agencies of export food manufacturers through issuing required certificates and related approval documents like contract, invoice, packaging list, ex-factory qualification certificate, supply certificate of processed material of export food”(art.32, Measures for the Safety Administration of Imported and Exported Food). If the exported food satisfies with the exporting requirements, the import and export inspection and quarantine agencies shall issue a certificate and related documents. These documents include:

First is the export goods customs clearance. When the location of the inspection and quarantine agency is consistent with the customs declaration location, customs declaration and clearance of goods would start when receiving the export goods customs clearance.

Secondly is the export goods replacement voucher. This voucher works if the location of the inspection and quarantine agency is different from the customs declaration location. It is provided by the origin inspection and quarantine agency of the producer, and used to apply to the port inspection authorities for port inspections. If the inspection has been passed, a export goods customs clearance would be sent.

Thirdly is the inspection certificate. Inspection certificate is legal instrument to prove that export food quality. It is used in the procedures like delivery, claims, payments , etc. for the trade parties.

In addition, “For export food failing to satisfy inspection and quarantine requirements, the inspection and quarantine agencies shall issue an unqualified certificate; for those requiring technical processing, the processing shall be conducted under the monitoring of the inspection and quarantine agencies. Those products may be exported after being qualified. Additionally, those products that fail remain unqualified after technical processing, are prohibited from entry (art.32, Measures for the Safety Administration of Imported and Exported Food)”

Chinese food companies who export food to foreign countries have to be double-supervised by the related departments of China as well as the import countries: first of all, these companies need to accept supervision and spot checks from inspection and quarantine agencies; secondly, they have to accept the inspection and clearance by the customs; then, these companies must record to the national inspection and quarantine department; finally, the products of these companies have to meet the appropriate food standards of the import countries.

5.3 Sanlu infant milk powder case

Backgrounds:

The first case of baby patient of multiple stones in both kidneys and ureteral stones was admitted by the First Hospital of People's Liberation Army, at Lanzhou, Gansu, on June 28th of 2008. There

were totally 14 infants treated in this hospital in two months time from that day on, furthermore, these babies all suffered from the similar symptoms. It was found through the extensive investigations that these babies had a similar experience, namely the long-term consumption of Sanlu infant milk powder produced by Shijiazhuang Sanlu Group. On September 11, through investigation, the Ministry of Health confirmed that the Infant formula produced by Shijiazhuang Sanlu Group was contaminated by Melamine. Meanwhile, in similar cases also occurred other provinces around China, such as Shanxi, Ningxia, Hunan, Hubei, Shandong, Anhui, Jiangxi and Jiangsu provinces. This was the beginning of the Sanlu infant milk powder illegally adding melamine incident.

On 2008, 13 September, CPC Central Committee and the State Council made arrangements to severely deal with the Sanlu infant formula milk powder incident: major national food safety incidents response measures were launched and the leading group to deal with emergencies was set up immediately. However, the melamine milk powder incident became more significant when products from 22 enterprises 69 batches were tested with different amounts of melamine even some liquid milk products produced by several well-known enterprises of China had been tested with melamine. Till the 12th of December, because of the Sanlu infant formula incident, 22,401,000 infants were checked, among them, 294,000 infants were reported with urinary tract abnormalities due to the consumption of the melamine milk powder; 52,019 infant patients were hospitalized cumulatively and 154 infant patients needed intensive treatment. After experts' investigation, there are six reported death cases possibly due to the consumption of melamine milk powder.

Discussions:

Comparing to the Anhui Fuyang incident, Sanlu infant formula incident had a broader and more profound impact on the food safety issues in China; while comparing to the Japan dumpling incident, Sanlu infant formula incident cause more serious international repercussions. Furthermore, the outbreak of this shocking incident accelerated the pace of food safety legislation: the incident occurred only two months later than the second draft amendment of Food Safety Law; however, it became the direct cause of the third time draft amendment of the Food Safety Law. In fact, eight aspects changed by the third revised draft of Food Safety Law were almost all carried out of this incident.

Some important aspects of the influence of the Sanlu infant formula incident to the Food Safety Law are discussed as follows:

- The exemption system is expressly repealed. Sanlu Group used to be the largest milk producer in China, Sanlu milk powder was AQSIQ announced assured products, and one of the exemption products. Sanlu incident teaches consumers that exemption products does not mean quality assured products; while warns government departments that abandon regulatory responsibility will inevitably lead to the problems.

“The food safety regulatory departments shall not grant exemptions on food inspection(art60, FSL)” . By using these words, Food Safety Law makes a final deny of the exemption system used for many years in China. Food Safety Law has also developed regular or irregular spot checks responsibilities for the food safety supervision departments.

In front of food quality and safety, the size of the producers has no difference,

even the large enterprises should be more strictly regulated, for the greater the company's influence is, the more people are affected by its products.

- Uncatalogued additives shall not be used. In the "Sanlu incident", chemical raw material of melamine was added in dairy products, showing the weakness of the supervision work for food additives. To prevent non-standard use and abuse of food additives, ensure food safety of raw materials, Food Safety Law clearly defined the production and trading, catalog, using and label of food additives, it also declares that:

A food additive can be incorporated into the scope permitted for use only after it is technically required and proven to be safe and reliable through the risk assessment. The executive department of health under the State Council shall timely revise the standards on varieties, scope of application, and dosage levels of food additives in accordance with technical necessity and the results of food safety assessments (art. 45, FSL).

It is noteworthy that the Food Safety Law introduces a licensing system for food additives. The work of this license system can not only effectively prevent the food producers and traders from using the additives which are not in the permitted list, but also ensure the proper use of the food additives.

- Government's responsibility in the recall system is stressed. Sanlu Group had receive a number of complaints from consumers suffering from urinary tract stones since March of 2008, although had undertaken a number of surveys by the Group itself, no effective measures were taken, worsening the situation. Sanlu Group hadn't recalled any products from the market, or sealed the storage products until September.

In the draft of Food Safety Law before Sanlu incident, food recall is defined as the company's autonomous behavior: when producers find their own food in question they should take the initiative to recall; when traders identify problems, they shall immediately notify the producer to recall the products (Dongyu P., 2008).

However in the deliberation of the draft Food Safety Law after the Sanlu incident, some Standing Committee members made it clear that the implementation of food recall system depends not only on enterprises consciously, but also on the enforcement and management of the government. These suggestions were later added in the Food Safety Law, and the final article is article 53 of Food Safety Law:

A food recall system shall be established in China. Where a food producer finds that the food being produced does not comply with food safety standards, the food producer shall immediately stop production of the food, recall the food product released to the market, notify relevant producers, traders and consumers, and create a record on recalls and notifications....In the event that a food producer or trader fails to recall or stop trading of the food that does not comply with the food safety standards as required in the Article, the executive departments of quality supervision, industry and commerce, and food and drug administration at the county level

or above may order it to recall or stop trading of the food.

6. Conclusions.

Chinese food law has been implemented for more than three years already, however there seems to be no significantly reduce of the frequency of food safety incidents occurrences. What if the Food Safety Law does not comply with China's current social and political conditions? As explained in chapter 2, figure 1, food safety issues are caused by complex reasons, not only the law itself, but the supervision system, market and also consumers can influence the safety of food. Furthermore, Food Safety Law has brought some really positive impact on the food safety legal and supervision system, although some provisions still need more supplementary provisions.

The most obvious and important change for the supervision system is the buildup of Food Safety Commission. With the guidance and over-all management of the Food Safety Commission, the communication of all related departments is ensured, and the responsibilities of each part of the supervision system would be clearer. .

There are huge changes in Food Safety Law when comparing to the original Food Sanitation Law. The aim and scope, principle and definitions, as well as the penalties have all been improved. Although the Food Safety Law has made a improved framework of all the laws and regulations about food safety, there might be some practice difficulties for some specific regulations, such as the way “10 times compensation” would put into practice still needed discussions .

Despite the fact that the new legal and supervision system of food safety has already worked for more than three years, supplementary regulations and institutional adjustments continues even till now. I sincerely believe that the Food Safety Law would eventually mature and works effectible with the food safety issues in China.

References:

Articles:

Bart Kasteleijn(2012), PPT of lecture Introduction to Chinese Law and Legal Practice.

Bei Zeng, Huanjin Cui(2012), Policy and Periodical Features of Food Safety Regulation:1978~2011. *Macroeconomy*, vol284: 23-28.

Bernd van der Meulen, Menno van der Velde(2009), *European Food Law Handbook*, 1st ed. Wageningen Academic Publishers, 250-252.

Colin Doeg(2005), *Crisis Management in the Food and Drink Industry: A Practical Approach*, 2nd edition. 13-14.

Current food supervision in China (n.d.). Retrieved October 21, 2012, from <http://www.giz.de/>.

Dongyu Peng(2008), *Can the law to prevent the "Sanlu incident" repeat*. Chinese NPC journals, 2008-11:14-16.

Edward I. Broughton, Damian G. Walker (2010), *Policies and practices for aquaculture food safety in China*. *Food Policy*, vol35:471-478.

Huajiang Yu(2010), *Chinese Food Safety Law*. Foreign Trade University Press, 1st ed., 7-8.

Hui Jiang(2011), *On the crux of China's food safety supervision and outlet*. *Science of Law (Journal of Northwest University of Political Science)*, 6: 154-162.

John Balzano(2012), China's Food Safety Law: Administrative Innovation and Institutional Design in Comparative Perspective. *Asian-Pacific Law & Policy Journal*. Vol13(2):23-80

Jun Lu, Hongsen Tang(2012), *Industry associations involved in the legal implementation of food safety supervision*. *Journal of Shenyang University of Technology(Social Science Edition)*, Vol. 5: 203-206.

Liqiang.Cao(2011), *Analysis of Chinese food safety system*. *Machinery for cereals oil and foodprocessing*, 2011.:23-25.

Nan Ni(2012), *Discussion on basic principles of food safety law*. Law and Social, 20120802: 25-27.

National Research Room (2013), What new progress government reform and construction has made. Government Work Report and Interpret.

National Standardization Management Committee (2006), *Food Standardization*. China Standard Press, 1st ed., 23-35.

Pinghui Xiao, Zhigang Yan(2005). *Discussion on Food Safety Administration System of China*. Public Administration And Economic, Trade, Scientific And Technological, 74-84

Xiaowen Yin (2012), *Defects and perfections of private litigation monitoring mechanism of food safety in Food Safety Law*. Journal of Xihua University (Philosophy & Social Sciences), vol 31: 80-83.

Xiao Zhang(2011), *The review and improvement of Chinese Food Safety Law*. Journal of North China Institute of Water Conservancy and Hydroelectric Power(Social Science), vol26:119-121

Yongmao Ye(2004),*Chinese food safety regulatory status and development trend*. Drug Evaluation , Volume 1: 323-329.

Yongmao Ye(2006), Review of the draft of Food Safety Law. Evaluation of Medicinal Products.III(1):1-9

Youhai Sun(2008), *Development and Reform Blue Book*,1st ed. Science Documentation Publishing House, 259-241.

Zhuolin Yang(2009). *Theoretical discussion of food quality and safety*. China Industrial and Commercial Management Research:12-19

Laws and Regulations:

China's National People's Congress (NPC) Standing Committee (2009), Food Safety Law of the People's Republic of China.

China's National People's Congress (NPC) Standing Committee (1995), Food Sanitation Law of the People's Republic of China.

China's National People's Congress (NPC) Standing Committee (2006), Quality and safety law of the People's Republic of China Agricultural Products

China's National People's Congress (NPC) Standing Committee (2009), Regulations on the Implementation of Food Safety Law of the People's Republic of China

China's National People's Congress (NPC) Standing Committee (2008), The PRC Food Safety Law (Draft as of 20 April 2008).

China's State Council (2006), National Plan for Emergency Response to Food Safety Incidents (2011 Revision).

Institutional establishment and responsibilities of the Office of the Food Safety Committee of the State Council approved the adjustment (Central Office [2011] No. 216)

National Food Additives Standardization Technical Committee (2007), Hygienic Standards for uses of food additives (GB2760)

Appendix

Food Safety Law of the People's Republic of China (from USDA Foreign Agricultural Service; Approved by: William Westman, AgBeijing; Prepared by: Mark Petry and Wu Bugang)

The Food Safety Law of the People's Republic of China has been adopted at the 7th Session of the 11th Standing Committee of the National People's Congress of the People's Republic of China on February 28, 2009, is now issued, and shall be effective as of June 1, 2009. President of the People's Republic of China Hu Jintao February 28, 2009

Table of Content

- Chapter 1. General Provisions
- Chapter 2. Surveillance and Assessment of Food Safety Risks
- Chapter 3. Food Safety Standards
- Chapter 4. Food Production and Trade
- Chapter 5. Inspection and Testing of Food
- Chapter 6. Food Import and Export
- Chapter 7. Response to Food Safety Incidents
- Chapter 8. Supervision and Administration
- Chapter 9. Legal Liabilities
- Chapter 10. Supplementary Provisions

Food Safety Law of the People's Republic of China

Chapter 1: General Provisions

Article 1 This Law is formulated to assure food safety and safeguard people's health and life.

Article 2 The following business activities carried out within the territory of the People's Republic of China shall abide by this law:

- 1) Food production and processing (hereinafter referred to as "Food Production"); food distribution and catering service (hereinafter referred to as "Food Trading");
- 2) Production and trading of food additives;
- 3) Production and trading of packing materials, vessels, detergents and disinfectants for food, as well as utensils and equipment used in food production and trading (hereafter referred to as "Food-Related Products");
- 4) Food additives and food-related products used by food producers and traders;
- 5) Safety management of food, food additives and food-related products.

The quality and safety management of primary agricultural products for consumption (hereinafter referred to as "Edible Agricultural Products") shall abide

by the Law of the People's Republic of China on Quality and Safety of Agricultural Products. However, this Law must be observed when developing quality and safety standards and releasing food safety information on edible agricultural products.

Article 3 Food producers and traders shall strictly follow relevant laws, regulations and food safety standards in their business activities, be responsible for the public, ensure the food safety, receive the supervision of the public, and bear the social responsibility.

Article 4 The State Council shall establish a Food Safety Committee whose responsibilities will be determined by the State Council.

The executive department of health under the State Council is responsible for the overall food safety coordination, risk assessment of food safety, formulation of food safety standards, release of food safety information, development of accreditation criteria for food testing agencies and testing specifications, and the organization of investigation of and response to major food safety accidents.

The regulatory departments for quality supervision, industry and commerce administration, and food and drug administration under the State Council shall regulate food production, food distribution, and catering service, respectively, in accordance with this law and the responsibilities identified by the State Council.

Article 5 Local people's governments at and above the county level shall take integrated responsibility, leadership, organization, and coordination roles in regulating food safety within their jurisdiction and shall establish and hone a mechanism on the regulation of food safety during the whole food chain; take the integrated leadership and guidance role in dealing with food safety emergencies; develop and enforce a food safety accountability system that evaluates and examines the regulatory agencies related to food safety.

The local People's Government at the county level or above shall define the regulatory responsibilities relating to food safety for the executive departments on health, agriculture, quality supervision, industry and commerce, and food and drug administration in accordance with this Law and the State Council regulations. The relevant departments shall be responsible for the regulatory work on food safety within their respective jurisdiction. Agencies that are established by subordinate administrative divisions of a higher level government and are located in a lower level administrative region shall carry out the regulatory responsibilities of food safety under the integrated organization and coordination of the lower level government.

Article 6 The administrative departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall enhance communication, coordination, exercise the rights and bear the responsibilities in accordance with their respective duties.

Article 7 Food industry associations shall tighten the self-discipline of the industry, and guide food producers and traders to produce and trade according to law, facilitate the construction of industry creditability, and publicize and spread knowledge related to food safety.

Article 8 The State encourages social and community groups to conduct

educational activities regarding food safety laws and regulations, food safety standards and knowledge, to advocate healthy diets, and to raise consumers' food safety awareness and self-protection ability.

The media shall publicize food safety laws, regulations, standards and knowledge for free and provide public oversight on acts that violate the Law.

Article 9 The State encourages and supports basic and applied research related to food safety and encourages and supports food producers and traders to adopt advanced technologies and management practices for the sake of enhanced food safety.

Article 10 Any organization or individual has the right to report any act during food production and trade that violates this Law and has the right to inquire food safety information from relevant agencies and provide comments and suggestions about food safety regulation.

Chapter 2: Surveillance and Assessment of Food Safety Risks

Article 11 A national surveillance system for food safety risks shall be established to monitor food-borne diseases, food contamination and other food-related hazards.

The executive department of health under the State Council, in conjunction with other relevant departments of the State Council, shall formulate and enforce a national surveillance plan on food safety risks. The executive departments of health at the people's governments of provinces, autonomous regions and municipalities directly under the central government shall formulate and enforce surveillance plans on food safety risks within their respective jurisdiction in accordance with the national surveillance plan on food safety risks and taking into account regional particularities.

Article 12 The executive departments on agriculture, quality supervision, industry and commerce, and food and drug administration under the State Council shall immediately report to the executive department of health under the State Council after hearing any information on food safety risks. The executive department of health under the State Council shall in a timely manner adjust the surveillance plan on food safety risks upon verification of the information with other relevant authorities.

Article 13 A national assessment mechanism for food safety risks shall be established to assess the risks on biological, chemical and physical hazards in foods and food additives.

The executive department of health under the State Council shall be responsible for organizing food safety risk assessments. An expert committee on food safety risk assessment which is composed of experts on medical science, agriculture, food, and nutrition, shall be established to conduct the food safety risk assessment.

The safety assessment of pesticides, fertilizers, growth regulators, animal drugs, feed and feed additives shall be attended by experts from the expert committee on food safety risk assessment.

The food safety risk assessment shall be conducted on the basis of scientific methods, information of food safety risk surveillance, scientific data, and other

relevant information.

Article 14 The executive department of health under the State Council, upon discovering any possible safety problem through food safety risk surveillance or reports of other parties, shall immediately organize inspection and food safety risk assessment.

Article 15 The executive departments for agriculture, quality supervision, industry and commerce administration, and food and drug administration under the State Council shall make suggestions on food safety risk assessment and provide the relevant information and documents.

The executive department of health under the State Council shall inform the relevant departments of the State Council of the food safety risk assessment results in a timely manner.

Article 16 Food safety risk assessment results shall be the scientific basis for developing and modifying food safety standards, as well as regulating food safety. In case the food safety risk assessment concludes that a food is unsafe, the executive departments for quality supervision, industry and commerce, and food and drug administration under the State Council shall immediately take corresponding actions within their respective duties to ensure termination of the food production and trade inform consumers to stop consumption of the food; if necessary, the executive department of health under the State Council shall immediately formulate or modify the relevant food safety national standards.

Article 17 The executive department of health under the State Council shall, in conjunction with relevant State Council departments, conduct comprehensive analyses of the food safety situation according to the result of food safety risk assessments and food safety regulatory information. For foods with high potential risks as a result of the comprehensive analyses, the executive department of health under the State Council shall issue food safety alerts to the public in a timely manner.

Chapter 3: Food Safety Standards

Article 18 The food safety standards shall be intended to safeguard the public health, to be scientific, reasonable, safe and reliable.

Article 19 Food safety standards are mandatory. Except for the food safety standards, no other mandatory standards for food shall be developed.

Article 20 Food safety standards shall include the following:

- 1) The limits of pathogenic microorganisms
- 2) Varieties, scope of application, and dose of food additives;
- 3) Requirements for nutritional ingredients in staple and supplementary food dedicated to babies and other specific populations;
- 4) Requirements for labeling, identification and instructions relevant to food safety and nutrition;
- 5) Hygienic requirements for food production and trading processes;
- 6) Quality requirements related to food safety;
- 7) Methods and procedures for food testing; and
- 8) Other particulars necessary for developing food safety standards.

Article 21 The executive department of health under the State Council shall be responsible for developing and publicizing national food safety standards and the standardization administrative department under the State Council shall provide the national standard number.

The limits of pesticide residue and veterinary drug residue in food and their testing methods and procedures shall be developed by the executive department of health and agriculture under the State Council.

The testing procedures for slaughtering livestock and poultry shall be developed by the competent authorities under the State Council in conjunction with the executive department of health under the State Council.

In case a product's national standard involves the national food safety standard, it shall be consistent with the national food safety standard.

Article 22 The executive department of health under the State Council shall consolidate the mandatory standards among existing quality and safety standards for edible agricultural products, food hygiene standards, food quality standards, and relevant industry standards related to food and issue unified national food safety standards.

Before issuance of the national food safety standards specified in the Law, food producers and traders shall produce or trade food based on existing quality and safety standards for edible agricultural products, food hygiene standards, food quality standards, and relevant industry standards related to food.

Article 23 The national food safety standards shall be reviewed and approved by the national food safety standard evaluation committee which is composed of experts in medicine, agriculture, food, and nutrition as well as representatives from relevant departments under the State Council.

The formulation of national food safety standards shall base on the results of food safety risk assessments and take full account of the results of quality and safety risk assessments for edible agricultural products, shall reference to the relevant international standards and the results of international food safety risk assessments, and shall solicit extensively the opinions from food producers, traders, and consumers.

Article 24 In the absence of a national food safety standard, a local food safety standard may be developed.

The executive departments of the people's governments at the provincial, autonomous region, and municipal levels shall organize the drafting of local food safety standards with reference to the provisions of this Law regarding formulation of national food safety standards and report to the executive department of health under the State Council for record.

Article 25 In the absence of a national or local food safety standard, the food enterprise may develop an enterprise standard as this basis for production. The State encourages food enterprises to develop enterprise standards more stringent than the national or local food safety standards. The enterprise standard is applicable only to the enterprise and shall be reported to the executive department of health at the provincial level for record.

Article 26 Food safety standards shall be accessible by the public for free.

Chapter 4: Food Production and Trade

Article 27 Any food production or trading activities shall comply with food safety standards and the following requirements:

- 1) Have appropriate places for raw material treatment and food processing, packaging, and storage that are suitable for the variety and quantity of the food being produced or traded, make the environment tidy, and keep a required distance away from toxic or hazardous places, and other contamination sources.
- 2) Have appropriate production or trading equipment or facilities that are suitable for the variety and quantity of the food being produced or traded, have appropriate equipment or facilities for disinfection, changing clothes, cleansing, lighting, ventilation, anticorrosion, dust-proofing, fly-proofing, rat-proofing, pest-proofing, washing, and drainage of wastewater, and deposit of garbage and wastes.
- 3) Have technical staff on food safety, management personnel, and the rules and regulations to ensure food safety;
- 4) Have reasonable equipment layout and operational flow to prevent cross-contamination between unprocessed foods and direct consumption foods, between raw materials and finished products, and to avoid food contacting with toxic or dirty items;
- 5) Wash and sterilize the tableware, kitchenware, and containers holding direct consumption food before use, and wash and clean the kitchenware and utensils after use;
- 6) Use safe and harmless containers, tools, and equipment for food storage, transportation, and loading/unloading, keep them clean and avoid food contamination, comply with special requirements such as temperature for food safety purposes, and never transport food with toxic or harmful items ;
- 7) Use small packages or nontoxic and clean packaging materials and tableware for direct consumption food;
- 8) Food producers and traders shall maintain personal hygiene, clean their hands, and dress in clean clothing and cap; use sterilized and clean vending tools for direct consumption food without a package;
- 9) Use water that complies with the national hygienic standard for drinking water;
- 10) Use detergents and disinfectors that are safe and harmless to the human body;
- 11) Other requirements stipulated by laws and regulations.

Article 28 Production and trading of the following foods are prohibited:

- 1) Food made with non-food raw material or added with chemicals other than food additives or other substances possibly hazardous to human health, or food produced from recycled food as raw materials;
- 2) Food with content of pathogenic microorganisms , pesticide residues, veterinary drug residues, heavy metals, contaminants, and other substances of possible hazards to human health exceeding the limits of the food safety standards;
- 3) The nutritional ingredients for staple and supplementary food dedicated to babies and other specific populations fail to comply with food safety standards;
- 4) Food which is rotten or spoiled, has rancid fat, contains mold or insects, is dirty

or contaminated, contains foreign matters, has been adulterated, or displays abnormal sensory indication;

5) Meat or meat products of poultry, livestock, animals, or aquatic animals that die from disease, poison, or any unidentified causes;

6) Meat or meat products that have not been inspected and quarantined by animal health supervisory agencies or have failed to pass such inspection and quarantine;

7) Food contaminated by packaging materials, containers or means of transport;

8) Food exceeding the shelf life;

9) Pre-packaged products without labels;

10) Food expressly prohibited by the State from production and trading for special purposes such as disease prevention;

11) Other food failing to meet food safety standards or requirements.

Article 29 The State implements a licensing system for food production and trading. Any organization or individual shall obtain a food production license, food distribution license, or catering service license according to law before engaging in food production, food distribution, or catering service.

Food producers having a food production license are not required to obtain a food distribution license when selling foods produced by themselves at their production premises; catering service providers having a catering service license are not required to obtain a food production or distribution license when selling foods produced by themselves at their service premises; farmers are not required to obtain a food distribution license when selling edible agricultural products produced by themselves.

Small food workshops and food vendors that engage in food production and trading activities shall comply with the food safety requirements of the Law suitable for their production or trading scale and conditions ensure that the food being produced or traded are clean, nontoxic and harmless. The relevant authorities shall strengthen the supervision and management over these individuals. Detailed management measures shall be developed in accordance with the Law by the standing committees of the People's Congress at the provincial, autonomous region, and municipal levels.

Article 30 The People's Governments at the county level or above shall encourage small food workshops to improve the production conditions and encourage food vendors to trade in fixed locations, such as centralized markets and shops.

Article 31 The executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall review applicants' documents as required by Article 27.1 – 4 of the Law in accordance with the Law of the People's Republic of China on Administrative Licensing, and shall inspect the applicant's production or trading place if necessary. For applicants that comply with the requirements, a license shall be granted; for those that fail to comply with the requirements, a license shall not be granted with reasons in writing.

Article 32 Food producers and traders shall establish a food safety management system, strengthen the training of the employees on food safety knowledge, assign

the full-time or part-time food safety management personnel, properly conduct inspection of the foods for operation and conduct the food production and trading according to law.

Article 33 The State encourages food producers and traders to comply with good manufacturing practices (GMP) and to implement the Hazard Analysis and Critical Control Point (HACCP) system in order to improve food safety management level. For food enterprises having been certified with GMP and HACCP, the certification institutions shall conduct the follow-up investigations according to law; for those failing to comply with the certification requirements, the certification institutions shall cancel the certificate according to law and report in a timely manner to the authorities of quality supervision, industry and commerce, and food and drug administration, and notify the public. The certification institution shall not charge any fees for the follow-up investigation.

Article 34 Food producers and traders shall establish and implement an employee health management system. Anyone who suffers from an infectious disease of digestive tract, such as dysentery, typhoid, or virus hepatitis, active tuberculosis, and purulent or weeping skin diseases that adversely affect food safety must not engage in work in direct contact with food for consumption.

The personnel involved in food production and trading shall take a medical check-up each year, and can work only after they have obtained a health certificate.

Article 35 The producers of edible agricultural products shall apply agricultural inputs such as pesticides, fertilizers, growth regulators, veterinary drugs, feed, and feed additives in accordance with food safety standards and relevant State regulations. Enterprises and specialized farmer cooperatives that produce edible agricultural products shall establish a production record for the edible agricultural product.

The executive department of agriculture at the county level or above shall enhance the management and guidance on the application of agricultural inputs and establish and improve a safe application system for agricultural inputs.

Article 36 Food producers shall check the license of the supplier and compliance certificate of the product when purchasing food raw materials, food additives, and food-related products. In the absence of a compliance certificate, the food raw material shall be tested in accordance with food safety standards. Food producers shall not purchase or use raw materials, food additives, and food-related products that do not comply with the food safety standards.

Food producers shall establish a verification record for incoming food raw materials, food additives, and food-related products, indicating such information as name, specification, quantity, supplier name and contact information, and purchase date of food raw materials, food additives, and food-related products.

The verification record for food raw material, food additives, and food-related products shall be true and be kept for at least two years.

Article 37 Food producers shall establish and maintain an inspection record for outgoing food that verifies inspection certificates and safety status of the outgoing food. It shall truly record such information as name, specification, quantity,

production date, batch number, inspection certificate number, name and contact information of the purchaser, and sale date.

The inspection record for outgoing food shall be true and be kept for at least two years.

Article 38 Producers of food raw materials, food additives, or food-related products shall inspect the food raw materials, food additives, or food-related products being produced in accordance with food safety standards and the products can exit the factory or be sold only after they have passed the inspections.

Article 39 Food traders shall check the license of the supplier and compliance certificate of the food when purchasing a food item.

Food trading enterprises shall establish and maintain an inspection record for incoming food that truly indicate such information as name, specification, quantity, production date, batch number, shelf life, name and contact information of the supplier, and purchase date.

The inspection record for incoming food shall be true and be kept for at least two years.

For food trading enterprises that adopt a centralized distribution model, the headquarters of the enterprises may centrally check the license of the supplier and compliance certificates of the food and create an inspection record for incoming food products.

Article 40 Food traders shall store food in accordance with food safety assurance requirements, and regularly check the food in storage and remove the spoiled or outdated food in a timely manner.

Article 41 Food traders shall indicate at the storage facility such information as food name, production date, shelf life, and name and contact information of the producer when storing food in bulk.

Food traders shall indicate on the container or external package the food name, production date, shelf life, and name and contact information of the trader when selling food in bulk.

Article 42 Pre-packaged food shall be labeled on the package, which indicate the following:

- 1) Name, specification, net content, and date of production;
- 2) Table of ingredients or formulation;
- 3) Producer name, address and contact information;
- 4) Shelf life;
- 5) Code of product standard(s);
- 6) Storage requirements;
- 7) Generic name of the food additives as used in the national standard;
- 8) Production License Number; and
- 9) Other information that must be indicated in accordance with applicable laws, regulations, and food safety standards.

The labels of staple and supplementary food dedicated to babies and other specific populations shall also indicate main nutritional ingredients and their contents.

Article 43 The State adopts a licensing system for the production of food additives.

The conditions and procedures of applying for a food additive production license shall be implemented in accordance with the relevant State regulations governing the administration of production licensing for industrial products.

Article 44 Any organization or individual applying for production of novel foods, new food additive varieties, or new food-related products shall submit the assessment materials relative to the product to the executive department of health under the State Council. The executive department of health under the State Council shall organize a review of the safety assessment materials within sixty (60) days upon receipt of the application. For applications that comply with food safety requirements, a license shall be granted and made public. For applications that fail to comply with the safety requirements, a license shall not be granted with an explanatory note in writing.

Article 45 A food additive can be incorporated into the scope permitted for use only after it is technically required and proven to be safe and reliable through the risk assessment. The executive department of health under the State Council shall timely revise the standards on varieties, scope of application, and dosage levels of food additives in accordance with technical necessity and the results of food safety assessments.

Article 46 Food producers shall apply food additives in accordance with food safety standards governing food additive varieties, scope of application and dosage levels and must not use any chemical substances other than food additives or other substances with possible hazards to human health during food production.

Article 47 Food additives must be provided with a label, instructions and packaging. The instructions shall include the information required in Article 42.1.1~6, 8 and 9 of the Law and the scope of application, dosage levels, and application methods of the food additives, and the words "Food Additive" shall be indicated on the label.

Article 48 Labels, instructions and packaging of food and food additives shall not contain false or exaggerated information, nor shall they make statements about disease prevention and treatment functions. Food producers shall undertake legal liability for declarations on the label, instructions and packaging.

Labels and instructions of food and food additives shall be clear, visible, and easy to read.

Food or food additives that are not consistent with the information indicated in the label and instructions shall not be marketed.

Article 49 Food traders shall market pre-packaged foods according to the warning mark, warning notes, or precautions on the food label.

Article 50 Food producers shall not add any medicine to food, unless the added substance is traditionally considered as both food and Chinese medicine. The catalogue of the substances traditionally considered as both food and Chinese medicine shall be developed and published by the executive department of health under the State Council.

Article 51 The State executes strict regulation over food with claims of special health functions. The relevant regulatory departments shall execute duties and assume responsibilities according to law. Detailed management measures shall be

developed by the State Council.

Food with claims of special health functions shall not cause acute, sub-acute, or chronic hazard to human body. The label and instructions shall not involve in disease prevention or treatment functions, and the content must be true and indicate clearly the suitable and unsuitable groups, functional ingredients or significant ingredients and their content. Product functions and ingredients shall be consistent with that indicated in the label and instructions.

Article 52 Consolidated trading market operators, stall leasers, and trade fair organizers shall review the license of the admitted food traders, specify the food safety management responsibilities of the admitted food traders, and regularly inspect the trading environment and conditions of the admitted food traders. Upon finding of any activity in breach of this Law, they shall immediately stop the activity and report to the local industry and commerce department or food and drug administration at the county level.

Consolidated trading market operators, stall leasers, and trade fair organizers who fail to fulfill the obligations stated in the preceding paragraph shall take a joint liability in the event of a food safety incident occurred in their respective marketplace.

Article 53 A food recall system shall be established in China. Where a food producer finds that the food being produced does not comply with food safety standards, the food producer shall immediately stop production of the food, recall the food product released to the market, notify relevant producers, traders and consumers, and create a record on recalls and notifications.

Where a food trader finds the food being traded does not comply with food safety standards, the food trader shall immediately stop trading of the food, notify relevant producers, traders and consumers, and create a record on the suspension of trading and notifications. Food that the producer deems necessary for recall shall be recalled immediately.

Food producers shall take actions such as remedy, removal of harm, or destruction of the recalled food, and report the food recall and treatment to the quality supervision department at the county level or above.

In the event that a food producer or trader fails to recall or stop trading of the food that does not comply with the food safety standards as required in the Article, the executive

departments of quality supervision, industry and commerce, and food and drug administration at the county level or above may order it to recall or stop trading of the food.

Article 54 Food advertisements shall provide truthful information, shall not include any false or exaggerated information, and shall not claim any disease prevention or treatment functions.

Food safety regulatory agencies or institutions undertaking food inspection and testing, food industry associations, or customer associations shall not recommend food to customers through advertisements or in any other forms.

Article 55 Civil societies or other organizations or individuals who recommend a

food to consumers in untruthful advertisements that has caused damages to the lawful rights and interests of the customers shall bear joint liabilities with the food producer and trader.

Article 56 Local people's governments at all levels shall encourage scale production and chain operation and distribution of food.

Chapter 5: Food Testing

Article 57 Food testing agencies shall perform food testing only after they have been accredited in accordance with relevant State requirements on certification and accreditation, unless otherwise specified in other laws.

The accreditation conditions and testing procedures for food testing agencies shall be determined by the executive department of health under the State Council.

Food testing agencies which have been established by competent departments of the State Council or have been accredited before the implementation of the Law may continue to perform food testing activities based on the Law.

Article 58 Food testing shall be performed independently by a food testing agency designated inspector.

The inspector shall test the food based on laws, regulations, food safety standards, and inspection and testing procedures. The inspector shall follow the science, observe professional ethics, and make sure that the testing data and conclusions are objective and fair. He or she must not issue false inspection testing reports.

Article 59 The food testing agency and the inspector shall be responsible for the food testing. Food testing reports shall bear the official seal of the food testing agency and the signature or seal of the inspector. The food testing agency and the inspector shall be held responsible for the food testing report.

Article 60 The food safety regulatory departments shall not grant exemptions on food inspection.

The executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above shall conduct sample testing regularly or irregularly on food products. They shall pay for the samples to be tested and shall not collect testing fees.

In the event that a food testing is needed while performing their regulatory duties, the executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above shall entrust and pay for food testing agencies compliant with the requirements of the Law to conduct the food testing. In the case of disputes over testing results, re-testing shall be conducted in accordance with the law.

Article 61 Food producers or traders may test the food produced by themselves or entrust testing agencies compliant with the requirements of this Law to conduct the testing.

In the event that a food industry association or consumer needs to entrust a food testing agency to for food testing, they shall choose a food testing agency compliant with the requirements of this Law.

Chapter 6: Food Import and Export

Article 62 Imported food, food additives and food-related products shall comply

with China's national food safety standards.

Imported food shall be inspected and cleared by the exit-entry inspection and quarantine agencies. Customs shall release the imported food upon receipt of a clearance certificate issued by the exit-entry inspection and quarantine agency.

Article 63 Importation of food without a national food safety standard or importation of a new food additive variety or new food related product for the first time, the importer shall submit an application and relevant safety assessment materials to the executive department of health under the State Council. The executive department of health under the State Council shall decide whether to approve or reject such applications according to Article 44 of the Law and shall develop corresponding national food safety standard in a timely manner.

Article 64 In the event that a food safety incident occurs overseas and may impact China, or a major food safety problem has been detected in imported food, the national exit-entry inspection and quarantine department shall issue a risk alert or take control measures in a timely manner and notify the executive departments of health, agriculture, industry and commerce, and food and drug administration under the State Council. These departments shall take corresponding actions immediately after receiving the notification.

Article 65 Exporters or agents exporting food to China shall be put on record at the national exit-entry inspection and quarantine department. Overseas food producers exporting food to China shall get registered at the national exit-entry inspection and quarantine agency. The national exit-entry inspection and quarantine department shall regularly publish the lists of exporters, agents or overseas food producers who have been recorded or registered.

Article 66 Imported pre-packaged food shall be provided with labels and instructions in Chinese. Labels and instructions shall comply with this Law and provisions of other laws, regulations and food safety standards of China and shall indicate country of origin and name, address, and contact information of the domestic agent. Pre-packaged food without labels or instructions in Chinese or their labels or instructions do not comply with the Law shall not be imported.

Article 67 Food importers shall establish a food import and sale record, truthfully record information such as the product name, specification, quantity, production date, production or import batch number, shelf life, name and contact information of the exporter and buyer, and delivery date.

The food import and sale record shall be true and shall be maintained for at least two years.

Article 68 Exported food shall be supervised and randomly inspected by the exit-entry inspection and quarantine agencies. The customs shall release the products upon receipt of a clearance certificate issued by the exit-entry inspection and quarantine agencies.

Producers of exported food, planting or breeding farms of raw materials for exported food shall be put on record at the national exit-entry inspection and quarantine department.

Article 69 The national exit-entry inspection and quarantine department shall

collect and consolidate safety information on imported and exported food and notify it to relevant departments, institutions, and enterprises.

The national exit-entry inspection and quarantine department shall establish and publish credit records of food importers, exporters, and export food producers and shall tighten inspection and quarantine on importers, exporters, and export food producers that have an unhealthy credit record.

Chapter 7: Handling of Food Safety Incidents

Article 70 The State Council shall organize the formulation of emergency plans for national food safety incidents.

Governments at the county level or above shall formulate emergency plans for food safety incidents within their jurisdiction based on relevant laws, regulations, and the emergency plan of the higher level government and the local situation and shall submit their plans to the higher level government for the official record.

Food producers and traders shall develop a response plan for food safety incidents, regularly inspect the implementation of preventive measures related to food safety, and eliminate potential food safety risks in a timely manner.

Article 71 The organization where a food safety incident has occurred shall take immediate actions to prevent the incident from spreading.

The organization where the incident has occurred and institution that receives and treats the patients shall immediately report to the executive department of health at the county of jurisdiction.

The executive departments of agriculture, quality supervision, industry and commerce, and food and drug administration shall report to the executive department of health upon discovering a food safety incident or hearing a report on food safety incident.

In the event of a major food safety accident, the executive department of health at the county level having received the report shall report to the local People's Government and the executive department of health at the higher People's Government. The People's Government of the county level and the executive department of health at the higher level shall report to higher authorities accordingly.

Any organization or individual shall not conceal, lie, delay, or intentionally destroy the evidence of any food safety accident.

Article 72 Upon receiving the food safety incident report, the executive department of health at the county level or above shall immediately work with the executive departments of agriculture, quality supervision, industry and commerce, and food and drug administration on investigation and handling of the incident and take the following measures prevent or mitigate the hazard to the public :

- 1) Deploy emergent rescue and the executive department of health shall arrange first aid and treatment to the injured persons from the food safety accident;
- 2) Seal up the food and raw materials likely causing the food safety accident and conduct immediate testing; for the confirmed food and raw material contamination, order the food producer and trader to recall, suspend operation, and destroy the product according to Article 53 of the Law;

3) Seal up the contaminated food tools and devices, and order for cleaning and sterilization;

4) Properly handle news releases on disclosing the food safety accident and the treatment, explaining and clarifying on possible hazards.

In the event of a major food safety accident, the People's Government at the county level or above shall immediately establish a commanding organization handling the food safety accident, activate the emergency plan, and handle the accident according to the above provisions.

Article 73 In the case of a major food safety incident, the executive department of health at city level with subordinate districts or above shall work immediately with relevant departments on investigation of responsible parties of the incident, urge relevant departments to perform their duties, and submit an investigation report identifying responsibilities to the local government.

In case a major food safety accident involves more than two provinces, autonomous regions, and municipalities, the executive department of health under the State Council shall organize the investigation on the responsibility of accident according to the provisions in the above paragraph.

Article 74 In the event of a major food safety incident, the disease control and prevention institutions at the county level or above shall assist the executive department of health and relevant departments in making hygiene treatment of the site and conducting the epidemiological investigation of factors related to the food safety accident.

Article 75 In addition to identifying the liabilities of the organization where the food safety incident occurred, investigation shall also cover any negligence or misconduct by regulatory agencies on supervision and certification as well as staff at certification institutions.

Chapter 8: Supervision and Administration

Article 76 The local People's Government at the county level or above shall organize the executive departments of health, agriculture, quality supervision, industry and commerce, and food and administration to develop the annual plan of supervision and management on food safety within their respective jurisdiction and implement such work according to the plan.

Article 77 The executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above have the right to take the following actions in the course of performing their respective duties of regulating food safety:

- 1) Enter production and trading sites for field inspection;
- 2) Conduct sample testing on food being produced or traded;
- 3) Review and copy relevant contracts, documents, notebooks, and other information;
- 4) Seal up and detain food proven to violate food safety standards, illegally used food raw materials, food additives, and food-related products as well as equipment and tools contaminated or used for illegal production or trading; and
- 5) Closing down places of illegal production and trading of food.

The executive department of agriculture at the county level or above shall be responsible for regulating edible agricultural products in accordance with the Law of the People's Republic of China on Agricultural Product Quality and Safety.

Article 78 The executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall record the results of supervision, inspection and punishment in the course of overseeing and inspecting food producers and traders. Such records shall be signed by supervision and inspection officers and food producers and traders before filing.

Article 79 The executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall establish and maintain food safety credit records for food producers and traders, record issuance of licenses, results of routine supervision and inspection, and handling of illegal activities; and shall increase the frequency of supervision and inspection on food producers and traders with unhealthy credit records based on the food safety credit records.

Article 80 Upon receiving any inquiry, complaint, or information, the executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall accept, promptly verify, and handle such an inquiry, complaint, or other information. The departments shall transfer matters beyond their duty and authority to other departments empowered to deal with such issues, which shall act immediately and not push responsibility to others. Matters belong to food safety incidents shall be handled according to Article 7 of the Law.

Article 81 The executive department of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall perform the regulatory duties on food safety according to their statutory authority and procedures. They shall not impose two or more administrative penalties on the same illegal food production or trading activity. Anyone suspected of violating criminal law shall be handed to the public security authorities according to law.

Article 82 The State shall establish a unified food safety information release system. The following information shall be centrally disclosed by the executive department of health under the State Council:

- 1) Overall situation of food safety in the country;
- 2) Food safety risk assessment and food safety risk alert;
- 3) Information on major food safety incidents and the handling; and
- 4) Other important food safety information and information identified by the State Council as requiring centralized disclosure.

The information set forth in 2) and 3) may, if its impact is limited to particular regions, be disclosed by the health departments of the people's governments of relevant provinces, autonomous regions and municipalities. The executive departments of agriculture, quality supervision, industry and commerce, and food and drug administration, shall disclose information on routine supervision and administration of food safety in accordance with their respective duties and responsibilities.

The regulatory departments on food safety shall disclose information on a timely, objective, and accurate basis.

Article 83 Upon receiving information requiring central disclosure pursuant to Article 82 (1), the executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall immediately report to their superior departments, which then shall immediately report to the executive department of health under the State Council, and, if necessary, they may directly report to the executive department of health under the State Council.

The executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall notify each other of any food safety related information.

Chapter 9: Legal Liabilities

Article 84 Food producers or traders who violate the Law by engaging in unauthorized food production or trading activities or production of food additives shall have the illegal benefits, including food or food additives illegally produced or traded, and tools, equipment and food raw material, used for illegal production or trading confiscated by the relevant authorities according to their respective duties and responsibilities, and be subject to a fine of RMB2,000 - 50,000 if the total value of the food or food additive is less than RMB 10,000 or a fine between 5 and 10 times of the total value of the commodity if the total value of the commodity exceeds RMB10,000.

Article 85 In violation of the Law with one of the following circumstances, the food producer or trader shall have the illegal benefits, including foods or food additives illegally produced or traded, and tools, equipment and food raw material, used for illegal production or trading confiscated by the relevant authorities according to their respective duties and responsibilities, and be subject to a fine of RMB2,000 - 50,000 if the total value of the commodity is less than RMB 10,000 or a fine between 5 and 10 times the total value of the commodity if the total value of the commodity exceeds RMB10,000; and for the serious cases, be revoked the business license

- 1) Producing food with non-food raw material or adding chemicals other than food additives or other substances possibly hazardous to human health to food, or producing food with recovered food as raw materials;
- 2) Producing or trading food which exceed food safety standard limits in content of pathogenic microorganisms, pesticide residues, animal medicine residues, heavy metals, contaminants, and other substances with possible hazardous to human health;
- 3) Producing or trading staple and supplementary food dedicated to babies or other specific populations the nutritional ingredients of which fail to comply with food safety standards;
- 4) Food which is rotten or spoiled, has rancid fat, grows with molds or insects, is dirty or contaminated, contains foreign matters, has been adulterated, or displays abnormal sensory indication;
- 5) Trading or producing meat or products of any poultry, livestock, animals, or

waterborne animals which have been killed by disease, poison or any unidentified cause;

6) Trading or producing meat or meat products which have not been quarantined or inspected by animal health supervision authorities or fail to pass such quarantine or inspection;

7) Trading food exceeding the shelf life;

8) Producing or trading food expressly prohibited by the State from production and trading for disease prevention and control purposes;

9) Using new food materials to produce food, or producing new varieties of food additives and food related products without a safety assessment;

10) Refusing to recall or stop operations when relevant authorities order a recall or stop of operation of food that does not comply with foods safety standard.

Article 86 In violation of the Law with one of the following circumstances, the food producer or trader shall have all illegal benefits, including food or food additives illegally produced or traded, and tools, equipment and food raw material, used for illegal production or trading confiscated by the relevant authorities according to their respective duties and responsibilities, and be subject to a fine of RMB2,000 - 50,000 if the total value of the commodity is less than RMB 10,000; or a fine between 5 and 10 times the total value of the commodity if the total value of the commodity exceeds RMB10,000; and for the serious cases, be ordered to stop production or business or even revoked the business license:

1) Trading the food contaminated with the packaging materials, container, transport means, etc.;

2) Producing or trading the pre-packaged food or food additives without label, or the food or food additives labels or instructions not in compliance with the Law;

3) Purchasing or using the food materials, food additives, or food related products not in compliance with food safety standards;

4) Adding medicine to food.

Article 87 In violation of the Law with one of the following circumstances, the food producer or trader shall be ordered to make correction or warned by the relevant authorities according to their respective duties and responsibilities; when refusing to make correction, be subject to a fine of RMB2,000 - 20,000; and for the serious cases, be ordered to stop production or business, until revoked the business license

1) Fail to test the purchased food materials, produced food, food additives, and food related products;

2) Fail to establish and observe the inspection record system and ex-factory inspection record system;

3) Fail to file for record of the enterprise food safety standard according to the Law;

4) Fail to store or sell food or clear off food in stock according to the regulations;

5) Fail to check the license or relevant certificates upon receiving incoming products;

6) Claim the functions of disease prevention and treatment in the label and instructions for the produced food and food additives;

7) Allow the person with diseases listed in Article 34 of the Law to execute the work contacting the food for direct consumption.

Article 88 In violation of the Law upon occurrence of any accident, the food producer or trader failing to make disposal or reporting shall be ordered to make correction or warned by the relevant authorities according to their respective duties and responsibilities; when destroying the evidence, be ordered to suspend the production or trading and subject to a fine of RMB2,000 - 100,000; and for the serious cases, be revoked the business license

Article 89 Under any of the following circumstances, any food producer or trader in violation of the Law, shall be given the punishment according to Article 85 herein:

- 1) Importing foods not meeting the national food safety standard of China;
- 2) Importing foods without applicable national food safety standard, or the new type of food additive and food related products, without safety assessment;
- 3) Exporting foods in breach of the Law.

The importer failing to establish and maintain the food import and sales record system, in violation of the Law, shall be subject to punishment specified in Article 87 herein.

Article 90 If any operators of central trading markets, stall leasers, and organizers of trade fair permit food traders without a license for food production, distribution or provision for catering services to sell food in the market in violation of this Law, or fails to perform their inspection or reporting obligations, the relevant authorities shall impose a fine between RMB2,000 and RMB 50,000 according to their respective duties and responsibilities, and, if serious consequences are caused, order suspension of operations for correction and revocation of its license by the original issuer.

Article 91 Where anyone or organization engages in food transportation activities in violation of this Law, the relevant authorities shall order immediate correction and give a warning; if correction is refused, order suspension of operations for correction and impose a fine between RMB 20,000 and RMB 50,000 according to their respective duties and responsibilities; and in serious circumstances, order revocation of its license by the original issuing department.

Article 92 For any organization whose license for food production, distribution or catering service has been revoked of, the direct responsible manager shall not be permitted for management of food production and/or trading activities within 5 years after the punishment.

If any organization for food production/trading engages any person not permitted for management of food production and/or trading activities, the license shall be revoked by the original issuing authority.

Article 93 If any food inspection agency or personnel issues false inspection reports in violation of this Law, the original authorities or institution granting its qualification shall revoke its certificate of qualification. The manager and personnel directly responsible shall be removed from office or dismissed.

Any food inspection personnel issuing false inspection reports in violation of this Law shall, if he/she has been subject to criminal prosecution or removed from office or dismissed, be prohibited from any food inspection work within ten (10) years thereafter. Any food inspection agency employing any person prohibited from food

inspection work will be subject to revocation of its certificate of qualification by the original authorities or institution granting its qualification.

Article 94 Any advertising containing false publicity to cheat the consumers in violation of the Law shall result in punishment according to Advertising Law of the People's Republic of China.

Any food safety regulatory authorities or institution for food inspection, food industry association, or consumer association, when recommending any food to consumers via advertising or other forms, in violation of the Law, shall be subject to confiscation of the illegal benefits by the relevant authorities, and the manager and other personnel directly responsible shall be given the punishment of recording a special demerit, demotion or removal from the office.

Article 95 If any local people's government at the county or above level fails to perform its duties pursuant to this Law in the course of supervising and administrating food safety, and food safety incidents occur with serious impact on society, both the government officials that bear responsibility and the executives directly responsible shall be punished by recording a special demerit against them or demoting or removing them from office.

If the executive departments of health, agriculture, quality supervision, industry and commerce, food and drug or other executive branches of the government at the country level or above fail to perform their duties under this Law, or abuse their authority, engage in self seeking misconduct and cause serious consequences, the authorities for supervision or appointment and dismissal shall punish the people chiefly responsible, the people directly in charge and other people directly responsible by recording a special demerit or demotion; if serious consequences are caused, the people chiefly responsible, the people directly in charge and other people directly responsible shall be removed from office or dismissed; the chief principal shall acknowledge the blame and resign.

Article 96 Anyone in violation of this Law causing personal or property damage or other damages shall be liable for compensation. When any manufacturer produces any food not conforming to the food safety standards or sells any food knowing its nonconformity with the food safety standards, the customer can demand the manufacturer or the seller to pay a penalty 10 times of the paid amount, in addition to the compensation for the loss thereof.

Article 97 Anyone in violation of this Law shall be liable for civil compensation and payment of penalties and fines, and when the assets are not sufficient for payment, the civil compensation shall be executed first.

Article 98 Anyone in violation of this Law shall, if the crime is committed, be subject to criminal prosecution.

Chapter 10: Supplementary Provisions

Article 99 For the purpose of this Law, the following terms shall have the meaning defined hereunder:

Food means any substance that has been processed or not processed that is suitable for eating and/or drinking, including substances used as food and medicine, excluding substances solely used as medicine.

Food Safety means the assurance that the food is nontoxic, harmless, and compliant with reasonable nutritional requirement, and will not cause any acute, chronic and potential hazards to human health.

Pre-packaged Food means food which is prepackaged or made in containers or packaging materials, according to the fixed amount.

Food Additive means any synthetic or natural substance used to improve the quality, color, fragrance, flavor of food, and used to add to the food or put together with the food for corrosion proof, keeping fresh or processing technology requirements.

Food Container and Packaging Material means the products made of paper, bamboo, wood, metal, porcelain, plastic, rubber, natural fiber, chemical fiber, or glass and used to contain food or additives, or coating in direct contact with food or additives.

Food Tools and Devices mean machines, pipes, conveyer belts, containers, appliances, tableware and other objects that have direct contact with food or additives during production, distribution and use of food or additives.

Food Detergent and Disinfectant mean substances that are directly used to wash or sterilize food tableware, and tools and devices, or food containers and packaging materials that have direct contact with food.

Shelf Life means the period prior to the "best before" date when the pre-packaged food remains in good quality under the storage conditions indicated on the label.

Food Borne Disease means any infectious, toxic or other disease caused by pathogenic bacteria which enter the body through food.

Food Poisoning means acute, sub-acute or other food-borne diseases that are caused by eating food contaminated by or containing poisonous or hazardous substances.

Food Safety Incident means any incident that may be caused by food poisoning, food borne diseases, food contamination, or other incidents arising from food and hazardous to human health.

Article 100 If the food producer or trader has received the relevant license before the execution of this Law, such a license shall remain valid until expiration thereof.

Article 101 The food safety administration for dairy products, genetically modified foods, pig slaughtering, wines and common salt shall be in accordance with this Law; when there is separate regulations, such regulations shall apply.

Article 102 The measures for administration of food safety in the railway operations shall be developed by the health administration authorities under the State Council together with other relevant departments of the State Council.

The measures for administration of food safety of the special foods and self-supplied foods in the army shall be developed by the Central Military Committee according to the Law.

Article 103 The State Council can make adjustments of the supervision and administration system for food safety according to the actual requirements.

Article 104 This Law shall enter into force on June 1, 2009 and the Law of the People's Republic of China on Food Hygiene shall be abolished.