

1. Executive Summary

Prior to the introduction of the Open Economic Policy to Sri Lanka in the year 1979, the food required for this country was imported by the Government and since the introduction of the Open Economic, the intervention of the private sector in the import of food was a noticeable feature. Specially in the case of import of food, attention should be paid to the quality of the imports and it is the main responsibility of the Food Control Administration Unit of the Ministry of Health, Nutrition and Indigenous Medicine. In terms of provisions in the Food Act, No. 26 of 1980 as amended by the Food (Amendment) Act, No. 20 of 1991, the Government Analyst is the Approved Analyst for this purpose whilst the Minister may appoint Additional Approved Analysts and the Additional Analysts are appointed by the Minister. Action will be taken either to release such food or take other course of action after obtaining from them the sample examination reports of the samples taken from the imported food containers. After taking the samples, consignments such as milk powder, fish, canned fish, butter and other imported food are retained in the Private Container Terminals until the receipt of the sample examination reports. Herein, the examination or the analysis relating to the Dicyandiamide (DCD) chemical content of milk powder and other poisonous chemicals and microbes in other items of food are carried out by the Industrial Technology Institute and the Medical Research Institute. Further the irradiation of the imported canned fish, frozen fish, milk powder, etc. is examined by the Sri Lanka Atomic Energy Board. When such facilities are not available in the State Sector Laboratories, services of private laboratories are procured for the examinations.

The objective of this performance audit was to evaluate the performance of the Chief Food Authority including the Food Control Administration Unit relating to the import of quality food and the Director General of Customs, the Food Authority for imported food. According to the primary observations, there were instances of contravening the provisions in the Food Act and the Regulations such as the fat content of the milk powder being less than 26 milligrammes and the formalin content of fish being more than 5 milligrammes. But the Director of Customs confirmed that the containers relating to those samples had been cleared. Several instances of release of food unfit for human consumption in the containers abandoned by importers, to the market were

observed. The Director General of Health Services, who is also the Chief Food Authority, is responsible for the administration of the Food Sector with a very wide scope, thus making his roles and responsibilities very complex.

It was observed in audit that there were instances of delays in the release of imported food to the market, expiry of shelf life of food, the inadequacy of the number of samples taken for examination as compared with the volume of imports and the release of food from private stores before the receipt of sample examination reports due to the delays in the issue of sample examination reports.

This report contains observations on major audit findings such as the lack of adequate laboratory space in the Medical Research Institute and the Sri Lanka Standards Institutions, dearth of modern equipment, locations of laboratories and administration institutions in far off places, vacancies in the Laboratory Technical Staff, lack of training facilities for the Food and Drugs Inspectors for updating their knowledge and skills and the lack of supporting evidence that orders made for destruction or re-export of food based on sample examinations had been implemented accordingly.

In order to ensure that only the quality food should be imported to this country, every step of the action taken, that is from the Port to the market should be properly supervised through the Chief Food Authority. The laboratory facilities of the Department of Government Analyst, the Sri Lanka Standard Institution and the Medical Research Institute and the other institutions carrying out examinations of the imported food should be improved. The legal background for taking stern action against the importers and traders responsible for creating problems relating to the quality of imported food should be formulated. The recommendations for the flow of the benefits therefrom to the general public are included in this report.

02. Background

2.1 Introduction

Since the introduction of the Open Economic Policy to Sri Lanka in the year 1979, the private entrepreneurs as well started to intervene in the import of food, of which the near monopoly was held by the Co-operative Wholesale Establishment until then. As such, in addition to the import of essential as well as commonly consumed food such as milk powder, dhal , dried fish and wheat flour, it provided the opportunity for the import of other non-essential food.

The authority on matters relating to food in Sri Lanka is the Director General of Health Services. Parliament has passed and enforced the Food Act, No. 26 of 1980 for the regulation of the productions, import, sale and distribution of food. A Food Advisory Committee has been established to advise the Minister on all matters that emerge in the implementation of the Act. The implementation of the recommendations of the Food Advisory Committee are handled by the Food Control Administration Unit established in the Ministry of Health, Nutrition and Indigenous Medicine and functioning under the supervision of the Director General of Health Services, the Chief Food Authority. In terms of Section 10(4)(b) of the Food Act, No. 26 of 1980, the Food Authority on the imported food is the Director General of Customs.

Apart from the above, the institutions such as the Department of Government Analyst, the Sri Lanka Standards Institution, the Department of Import and Export and the Sri Lanka Atomic Energy Board also execute their functions relating to the import of quality food to Sri Lanka. In terms of provisions in the Food Act, No. 26 of 1980, the Department of Government Analyst is the approved Analyst for testing of the samples of food imported to Sri Lanka. The Sri Lanka Standards Institution performs the functions such as the formulation of standards for food, testing of samples of food, registration of factories of foreign producers and the inspection of the factories of such producers. Even though the Department of Import and Export does not have an assigned authority under the Imports and Exports (Control) Act, No.1 of 1969, it has prohibited the import of goods into Sri Lanka contrary to the conditions attached to the Import Permits issued by the Department. The Sri Lanka Atomic Energy Board performs the function of a supplier of facilities to test whether the food imported had been subjected to the irradiation risk.

2.2 Scope of Audit

Obtaining relevant audit evidence considered as material and thereby reaching a provable conclusion was expected. Herein, the activities of the Orugodawatta Container Terminal which handles a very large volume of containers with imported food were examined. The documents and test reports on 20 varieties of food imported in the years 2012 and 2013 were examined.

In view of the nature and the number of the containers used for import of food, they could not be fully subjected to examination. The acceptability of the matters such as whether the samples are representative, the experience of the Food and Drugs Inspectors in the field and the methodologies followed in the long run were considered.

The test reports on the sample of food issued by the approved institution only were considered in this connection.

2.3 Authority for Audit

The audit was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

2.4 Reasons for Selection of the Subject

Food occupies a top priority position in the hierarchy of requirements for the mankind due to it being an essential factor to sustain the life of man from the birth to the death. With the change over from the closed economy of the past to the open economy, the State as well as the private entrepreneurs started to import different kinds of food into the country. Concurrently, the laws, rules and regulations for the protection of the quality of food imported to the country had been promulgated whilst the Government Institutions responsible thereto were established.

Nevertheless, the fact that most of the imported food available in the market not being conforming to the standards or being unfit for human consumption were matters currently attracting the attention. In view of the importance of the protection of the quality of imported food and the active intervention of the relevant State Institutions for the purpose in a scenario of fast spread of non-communicable diseases, this subject was selected for the performance audit.

2.5 Audit Approach and Objectives

(a) The provisions and the bases provided for in the following laws, rules and regulations were taken into considerations for the audit approach.

- * The Food Act, No. 26 of 1980, as amended by the Food (Amendment) Act, No. 20 of 1991, the Food (Amendment) Act, No. 29 of 2011 and the Orders made thereunder.
- * The Import and Export (Control) Act, No. 1 of 1969 and the Import (Standardization and Quality Control) Orders published in the Gazette Extraordinary No. 1447/28 of 1 July 2006.
- * The review of other documents and enquiries made from the relevant officers.

(b) Audit Objective

The evaluation of the performance of the Food Control Administration Unit including the Chief Food Authority and Director General of Customs, the authorized Food Authority on the imported food in connection with the import of quality food.

2.6 Limitations

Efforts were made for the minimization of limitations in the scope in the planning of this performance audit. In the examination of containers together with the Food and Drug Inspectors, the inability to go inside the containers to carry out examination, lack of facilities for the Government Analyst for carrying out certain tests, the limitations on the staff and other resources resulted in limiting the examination to a sample of the total imports of food during the years 2012 and 2013. As such the conclusion is based on the observations made on the food selected for the sample.

03. Detailed Audit Findings, Recommendations and Comments of Institutions

The audit observations, the detailed discussions and the recommendations relating thereto were as follows.

3.1 Food Act and the Regulations on the Imported Food

3.1.1 Formaldehyde Chemical Content

In the import of fish into the country, a Compliance Certificate that the formaldehyde content of such fish conforms to the amount of formaldehyde content determined as prescribed in Food (Content of Formaldehyde in the Fish) Orders 2010 issued by the National Authority of the exporting country should be produced at the time of import. If the formaldehyde content of such fish food exceeds 5 milligrammes per one kilogramme, those are unfit for human consumption and such fish should not be imported. According to the reports issued by the Government Analyst and the City Analyst, there had been 07 instances in the import of fish in the years 2011-2013 in which the formaldehyde content in the fish ranged between 0.7 and 2.5 milligrammes per kilogramme of fish. But it was observed that the Sri Lanka Customs had released the said fish to the importer.

3.1.2 Milk and Milk Products

The details were as follows.

- (a) According to the Food Regulations issued on milk and milk products, the milk fat content of full cream dried milk powder should be not less than 26 per cent. But it was observed according to the sample test reports issued by the City Analyst and the Government Analyst that there were 4 instances in the import of milk powder stocks during the period 2012 and 2013, in which the fat content of the imported milk powder stocks less was than the required percentage in the ranges of 0.4 per cent to 1.4 per cent.
- (b) According to the Food (Melamine Content in Milk and Milk Products) Orders 2010 in force with effect from 01 January 2011, any milk or milk product with melamine content exceeding 1.0 milligramme/ killogramme (per one million parts) should not be imported to Sri Lanka or manufactured. Nevertheless, it was observed that the stocks of milk powder had been released on the satisfaction that there is no melamine content without carrying out sample tests, based on the Compliance Certificates issued for the imported milk powder by the country of manufacture.

3.1.3 Shelf Life of Food

Even though the Notifications published in the Gazette Extraordinary No. 1694/5 of the Democratic Socialist Republic of Sri Lanka dated 23 February 2011 specified that the food imported to Sri Lanka should contain at least a minimum of not less than 60 per cent of the shelf life at the time they are brought to Sri Lanka, in five instances relating to 04 kinds of food which did not comply with that requirement, the Food Advisory Committee had permitted the importers to sell the entire quantity within a specifically determined period. Nevertheless, it was observed in Audit that the Food Control Administration Unit did not have a specific methodology to ensure that the importers take action in accordance with the decisions of the Food Advisory Committee in such instances.

3.1.4 Uncleared Stocks of Food released with Conditions attached

According to the information made available to Audit, the particulars of stocks of food recommended for release with conditions attached during the years 2012 and 2013 by the Food Advisory Committee for human consumption were revealed. According to such particulars, 07 kinds of food in 13 containers subjected to a sample check revealed matters such as stocks of food and adequate shelf life, lack of adequate quantities of specified contents and changes in the printed information in the packagings of food in the containers. But, action had been taken for the issue of those to the market with conditions attached.

In addition to the above, there were stocks of mango pulp and salt mixed with iodine which had been recommended by the Food Advisory Committee in two instances for either destruction or re-export.

3.1.5 Import of Genetically Modified Food

The permission of the Food Control Administration Unit of the Ministry of Health, Nutrition and Indigenous Medicine should be obtained for any imports of genetically modified food to Sri Lanka. The enquiries made from the Food Control Administration Unit revealed that there were no importers who had obtained licences to import genetically modified food to Sri Lanka in the year 2013. Nevertheless, action had not been taken to send food samples such as potatoes, tomatoes, soya flour, malt flour, corn flour, etc. which could be subjected to genetic modification to the Institute of Genetic Technology to ensure that there is no risk of the import of genetically modified food to Sri Lanka.

Indication

- i. Each content of food as specified in the Food Act had not been within the specified limits and the release of those to the market results in the creation of health problems as well as the creation of a customer exploitation trend in the market.
- ii. In view of the non-implementation of the controls by the authorities concerned for the prevention of release of food with the contents which are unfit for human consumption, the provisions in the Food Act remain without being implemented.

Recommendations

- i. In instances of food unfit for human consumption according to the Food Act are revealed from the test reports, action should be taken in terms of provisions in the Customs Ordinance.
- ii. Identify the food with the risk of being subjected to genetic modification, send samples of those to the Institute of Genetic Technology and ensure that those are fit for human consumption.

Comments of the Ministry of Health, Nutrition and Indigenous Medicine Observation (Paragraph 3.1.1)

“In the case of 08 containers of fish containing Formaldehyde exceeding the approved quantity subjected to 10 reports, the officers of the Imported Food Examination Unit had informed the Sri Lanka Customs to take action in terms of the Custom Ordinance as the fish did not conform to the food (content of Formaldehyde in fish) Orders 2010”

Observation (Paragraph 3.1.2)

“The Customs was informed to take action in terms of the Customs Ordinance in connection with the stocks of food identified as unfit for human consumption.”

Observation (Paragraph 3.1.3)

“In such instances, the authorities in the respective region, namely, the Authorized Officers, the Medical Officers of Health, and the Food and Drugs Inspectors have been informed by telephone to pay attention in this connection.”

Observation (Paragraph 3.1.4)

Not responded

Observation (Paragraph 3.1.5)

“In Instances of import of food with such risks, recommendations are made for the release of the food based on the certificate that there was no genetic modification issued by the exporting country.”

“In view of the non-detection of genetically modified food up to date and when food is imported from the countries which do not use the genetic technology for minimizing trade barriers, samples are not tested in every instance of import.”

3.2 Compliance with Standardization/ Quality Control Orders**3.2.1 Food Identified as Unfit for Human Consumption**

According to the Import (Standardization and Quality Control) Orders 2006 promulgated in terms of Section 20 of the Imports and Exports (Control) Act, No. 1 of 1969, any importer should not sell, expose for sale, use or distribute 33 kinds of food and beverages, unless otherwise the Director General of the Sri Lanka Standard Institution has granted approval to such importer.

According to a Sensory Test carried out in accordance with Sri Lanka Standard No. 591 in the years 2012 and 2013 on 31,620 and 16,040 cartons of canned fish respectively subject to such orders, had revealed, that those were not fit for human consumption and the Sri Lanka Customs was informed that the stocks will not be approved for sale and requested that the Standards Institution be informed whether the stocks will be re-exported or destroyed. But it was observed that the failure to indicate the Customs reference number and the date in the letters had been an impediment in taking prompt action. Even though a request had been made in those

letters to inform the Sri Lanka Standards Institution of the action taken on those stocks of canned fish, that had not been responded. As such the Audit could not obtain the information whether the stocks were destroyed or re-exported. This had not been brought to the notice of the Food Control Administration Unit. Even though there was the possibility of the issue of such food to the market for human consumption, it was not possible to ensure that the stocks had not been issued to the market.

3.2.2 Obtaining Samples without Delay

Even though the samples should be obtained immediately after the receipt of the imported food by the Sri Lanka Customs and send for examination, it was observed that the delay in obtaining samples of 20 instances of import of canned fish had been in the ranges from 07 days to 91 days. The samples of canned fish had been found unfit for human consumption. Even though that should have been informed in writing without delay to the Sri Lanka Customs, it was observed that there were delays ranging from 06 days to 05 months in informing.

Indication

In view of the non-communication of the stocks of canned fish not fit for human consumption detected through the examination carried out by the Sri Lanka Standards Institution and the delay in informing the Sri Lanka Customs there was a risk in the issue of canned fish unfit for human consumption to the market.

Recommendations

- i. The letters of the Sri Lanka Standards Institution sent to the Director General of Customs of the Sri Lanka Customs informing of the stocks found unfit for human consumption according to the respective Standards should be copied to the Food Control Administration Unit of the Ministry of Health, Nutrition and Indigenous Medicine.
- ii. Provide facilities for the Director General of Customs to take prompt action on the stocks of food by including the Customs reference and the date in the letters addressed to the Director General by the Sri Lanka Standards Institution.

- iii. Formulation of a systematic course of action for the communication of information on the food unfit for human consumption between the Sri Lanka Standards Institution and the Sri Lanka Customs promptly and correctly.

Comments of the Ministry of Health, Nutrition and Indigenous Medicine

Not responded

Comments of the Sri Lanka Customs

Observation (Paragraph 3.2.1)

“A Departmental Order was issued through D.O.P.L. 1048 of 23 December 2015 for regularizing this process. Accordingly the supervision over the consignments of canned fish released to the importer for the approval of the Sri Lanka Standards Institution has been regularized.”

Comments of the Sri Lanka Standards Institutions

Observation (paragraph 3.2.2)

Obtaining samples without delay

“There were no delays on the part of the Sri Lanka Standards Institution in obtaining samples of canned fish imported to the Island. Nevertheless, certain delays had occurred due to the following reasons beyond the control of the Sri Lanka Standards Institution.

- * Delay in unloading goods
- * Delays associated with the placement of containers transported to the Yards
- * Delays of the Importers
- * Most importers give the date of the Bill of Lading as the date of arrival of goods. Such date is not the date on which the goods arrived at the Port.”

Delays in the communication of particulars of rejected canned fish to the Customs.

“There were delays in the communication of particulars of canned fish unfit for human consumption caused due to the following reasons.

- i. In the event of the failure of the examined sample, the facility for the examination of the second sample as well is the right of the importer under the Import Programme and such communication for examination is made to the Sri Lanka Standards Institution after a delay.
- ii. As such considerable time is taken for such sampling.
- iii. Taking decisions on a stock of goods depend on several examinations done as specified in the Standards and considerable time has to be spent for completion of certain examinations.
- iv. A number of instances in which the Batch Numbers had not been printed on the containerized canned fish were observed and as such there were non-conformations with regard to their labels.
- v. Unavailability of productions to obtain samples for repeated examination required.”

3.3 Public Auction of Abandoned Containers

In instances where the imported food not claimed by the importers are taken over by the Central Sales (Abandoned Goods) Unit of the Sri Lanka Customs and offered for sale by public bids, the Food and Drugs Inspectors examine such goods and if such stocks of food are fit for human consumption, they are released for sale to the market.

Three containers (SHLU 2137860, SHLU 2009597, SHLU 2006427) shipped on 21 January 2013 had been left abandoned in the Port premises and the Deputy Director of Customs had, by his letter No. LD/S/SAGT/2013/01/PC-07 of 29 January 2013, made an Order that 26,138 kilogrammes (Bags 1,867 x 14 kilogrammes) of big onion in 02 containers were unfit for human consumption and that those should be destroyed under the supervision of the Superintendents of Customs. According to the letter dated 30 January 2013 issued by the Abandoned Goods Unit, the public sale at Rs. 30 per kilogrammes to cover the duty at Rs. 15 per kilogrammes had been recommended. Nevertheless, adequate evidence in support of the public sale had not been presented to Audit.

Indication

- i. Issue of stocks of food that should be destroyed, to the market at reduced prices results in the issue of food unfit for human consumption to the market.
- ii. The possibility of short eats prepared using big onion sold at reduced prices in reaching schools, universities and market for sale.

Recommendation

The process from ordering the destruction of food unfit for human consumption until they are destroyed should be confirmed by documents under the signature of the supervising officers.

Comments of the Sri Lanka Customs

Observation (paragraph 3.3)

Not responded

3.4 Obtaining and Examination of Samples of Food and Reporting

3.4.1 Obtaining Samples

In the case of a food for which Standard has not been specified in the Food Act, No. 26 of 1980, the standards as set out in the Notification published in the Gazette Extraordinary No. 1589/34 of 20 February 2009 should be made use of in the assessment of the quality of such food under the said Act.

The consignments of 145,912 and 168,874 metric tons of big onions and 110,823 and 123,204 metric tons of potatoes had been imported in the years 2012 and 2013 respectively. According to the general requirements in Sri Lanka Standards No. 1224 and No. 1217 relating to the big onions and potatoes respectively, the pesticide residue in the big onions and potatoes should not exceed the minimum limits specified in the Sri Lanka Standard No. 910 and in order to establish such position, such food should be subjected to laboratory examinations.

A perusal of the register maintained by the Imported Food Examination Unit for recording the samples received for examination to ensure whether the samples of the big onions and potatoes imported in the years 2012 and 2013 had been sent to the Government Analyst or the Colombo City Analyst did not confirm that position.

3.4.2 Failure to send Samples for Laboratory Examination

The following matters were observed during the course of the examinations carried out relating to obtaining samples for examination of quality from the dhal, a popular food of Sri Lanka, and abundantly imported to Sri Lanka.

Sri Lanka Standard No. 896 is the Standard relevant to dhal. According to the Standard, the sample should be collected from the three areas of the containers, namely, bottom, middle and top and should be well mixed. According to Section 5.5 of the Standard, Laboratory examination should be carried out to determine the required humidity level of the dhal and ascertain whether the foreign matter and damaged and broken seeds are within the expected level. Even though 113,993 and 150,889 metric tons of red dhal had been imported to Sri Lanka in the years 2012 and 2013, respectively a perusal of the register maintained by the Imported Food Examination Unit for recording the samples received for examination revealed that samples for examination for compliance with the Standards had been sent only in one instance.

3.4.3 Obtaining Samples for Irradiation Examination

The audit observations on the samples obtained by the Imported Food Examination Unit for examination and sending them to the relevant laboratories are given below.

- (a) The Imported Food Examination Unit sends the samples of food to the Sri Lanka Atomic Energy Board for carrying out examination of irradiation damage. It was observed that the canned fish samples are sent with the label bearing Trade Name and that the samples are carried by the agents of the importers. This process would not protect the confidentiality of the sample used due to the possibility of identification of the importer and as such it was not possible to be satisfied in Audit whether impartial examination reports of samples are furnished.
- (b) It was observed that samples from 25 kilogramme packages of milk powder are obtained and carried to the laboratory by the Wharf Clerks and that samples are obtained from the packages produced by them.



Samples obtained by Wharf Clerk

- (c) The laboratory reports on the samples handed over for examination are essential documents for the release of the stocks of food. An examination carried out to ascertain whether these reports are received by the Imported Food Examinations Unit without delays, revealed that none of the reports on 469 samples sent to a private laboratory from 20 July 2013 to 10 September 2013 had been received by 11 October 2013, the date of audit examination. Out of the samples of milk powder sent to the Industrial Technology Institute during the period 28 August 2013 to 06 December 2013 for carrying out DCD examination, the reports on 23 samples had not been received even by 05 February 2014.
- (d) Such delays referred to above in turn delay the release of stocks of food and it was observed that it affects the quality of the food.
- (e) Sri Lanka Customs determines the institutions whose examination methodologies should be adopted for examination of the fitness for consumption of the food imported to Sri Lanka. Whether such stocks should be permitted for issue to the market or otherwise depend on the results of the examination reports.

The laboratory examination reports of 39 and 83 samples of milk powder and canned fish relating to the years 2012 and 2013 respectively received by the Imported Food Examination Unit and sent to the Sri Lanka Atomic Energy Board for irradiation examination had not been collected from the Sri Lanka Atomic Energy Board by the importers even by 17 May 2014, the date of audit.

In response to a written request made to the Sri Lanka Customs to ascertain whether those stocks of food had been released, the Sri Lanka Customs confirmed that those goods were cleared by the importers.

3.4.4 Issue of Sample Examination Reports

The following deficiencies were observed in this connection.

- (a) Even though 34 samples taken from 2,098,186 kilogrammes of milk powder stored in the Orugodawatta Container Terminal from 20 July 2013 to 06 December 2013 had been sent to several laboratories including the Medical Research Institute, the sample examination reports thereon had not been received even by 05 February 2014, the date of audit.
- (b) In view of the retention of such food in private stores for more than 06 months until the receipt of sample examination reports, it was observed that there was the possibility of the expiry of shelf life of the food.

Indications

- i. Impediments in obtaining more reliable laboratory examination results existed due to certain weaknesses prevailing in relation to obtaining samples and sending them for examination.
- ii. Increase in the risk of expiry of shelf life of food due to the delay in the issue of sample examination reports.
- iii. Providing opportunity to importers to take action disregarding the results of sample examination reports.
- iv. Inability to ensure that quality food is issued to the market due to non-receipt of sample examination reports on a timely basis.

Recommendations

- i. In sending the samples of food such as milk powder, canned fish, etc., for examination, labels should be removed to prevent the identity of the importer/ manufacturer and use a secret code system which can be clearly identifiable only by the Food Control Administration Unit.
- ii. Increase the intervention of the officers in obtaining samples at random with reliability instead of allowing the intervention of the Wharf Clerks in the process.

Comments of the Ministry of Health, Nutrition and Indigenous Medicine

Observations (Paragraph 3.4.1 and 3.4.2)

“It is stated that no sampling is done in respect of examinations big onion, potatoes and dhal imported heavily to Sri Lanka.

In the examination of food, the above food falls under the low risk food/ raw food.

In sampling the above food items, paying a greater attention is not normally done even internationally. In the examination and sampling greater attention is paid to high risk food. (Milk and Milk Products / Meat and Meat Products and Fish and Fish Products/ Eggs, etc.)

Specially in the case of food such as potatoes, onions, etc., the conditions can be determined by looking at them with the naked eye. This methodology is followed even internationally.

Observation (paragraph 3.4.3)

“It is stated that this is handed over through the agents of the Importers. But the officers of the Unit place the seal and package them and send them to ensure the safety of the samples. If those seals appear to be changed when taking over those will not be taken over. Similarly there are no reports of changed seals up to date.

As the charges for examination should be paid when the samples are submitted the relevant parties participate. (Those samples are monitoring samples)”.

Comments of the Sri Lanka Customs

Observation (3.4.3 Paragraph)

“Elimination of the function of the Wharf Clerk in obtaining samples is not practical. The introduction of sealed packages (Sealed Pouch currently used by the Customs Department) will be recommended as a methodology in the collection of samples and handing over to the relevant institution as a methodology of handing over in protective packages. The delays could be avoided by creating an Online System between the Department and the laboratories in order to obtain the examination reports speedily”.

3.5 Recommendations and Decisions of the Food Advisory Committee

3.5.1 Functions of the Food Advisory Committee

It was revealed that the Committee had formulated conditions for 31 kinds of food. Even though the conditions specified in the Food Act should be amended from time to time in conformity with the current requirements, the only amendment made in the years 2012 and 2013 when there was a problematic situation relating to the import of food, had been to the “flavor enhancers”, It was also observed that there were 16 amendments on which the final conclusion had not been reached.

3.5.2 Implementation of the Recommendations and Decisions of the Food Advisory Committee

All stocks of food imported into this country are released by the Sri Lanka Customs after the receipt of the approval of the Food Control and Drugs Inspector. In the case of food not fit for human consumption, recommendation is made to the Sri Lanka Customs to take action in terms of the Customs Ordinance. But the Food Control Administration Unit does not take follow-up action thereon. Further, the important information and database on food not fit for human consumption (Customs Number, Date of Import, Particulars of goods and Particulars of Importer) has not been maintained in that Unit.

3.5.3 Procedure for Action on Appeals

Seven instances of delays ranging from 03 months to 10 months were observed in arriving at decisions on the appeals made to the Food Advisory Committee in the years 2012 and 2013.

3.5.4 Methodology followed for Appeals

Appeals on the food not recommended for human consumption by the Imported Foods Examination Unit are received by the Food Control Administration Unit and those are forwarded to the Food Advisory Committee. When importers not satisfied with the decision arrived at by the Food Advisory Committee, re-submit requests, the resultant delay has an impact on the quality level of the food. It was observed that in the case of 9 such appeals, further requests ranging from 02 to 05 occasions had been made.

Indications

- i. In addition to the impact on the quality of food caused due to delays, the possibility of price increases exist as the importer has to incur additional expenditure to keep the stocks in storage.
- ii. Providing opportunities for the release of stocks of food of low quality and harmful to health.

Recommendations

- i. Maintenance of a register containing the essential particulars of stocks of food unfit for human consumption and the particulars on the release of those to the market and the updated maintenance of files containing relevant documents and taking action on the release of those to the market.

- ii. The members of the Food Advisory Committee (e.g. Sri Lanka Standards Institution, the Medical Research Institute) should inform the Committee the information detected by their respective institutions on the food unfit for human consumption.
- iii. The members of the Food Advisory Committee should inform the relevant Divisions of their respective institutions on the decisions made by the Committee.

Comments of the Ministry of Health, Nutrition and Indigenous Medicine

Not responded

3.6 Release of Food Containers from the Private Stores

3.6.1 Release of Containers on Personal Guarantee

In the case of samples obtained by the Sri Lanka Customs from the Food Containers in Container Terminal situated at Orugodaawatta, Personal Guarantee had been obtained from the importers to retain the containers in their private stores until the receipt of the sample examination report. It was observed during the course of the audit test check carried out on 22 October 2013 that such Personal Guarantees remained with the Sri Lanka Customs over long periods as the importers had not taken action to cancel the Personal Guarantees. Details appear below.

Samples Sent to	Period of Sending Samples	Number of Samples	Items of Food
Sri Lanka Standards Institution	From 26 December 2012 to 17 June 2013	76	Canned Fish, Butter, Palm Oil, Margarine, Fruit Drinks, Sunflower Oil, Brown Sugar, Milk Powder
Sri Lanka Atomic Energy Board	From 06 June 2012 to 05 August 2013	29	Canned Fish, Milk Powder, Frozen Fish

Herein, the Sri Lanka Customs had not taken follow-up action on the importers who had not cancelled the Personal Guarantees.

3.6.2 Food transported to a Private Container Terminal for Customs Examination

Most of the Containerized food imported from foreign countries is examined by Sri Lanka Customs after their arrival in the Port of Colombo. Such containerized food is at present transported to the Private Container Terminal situated at Orugodawatta, outside the Port. After the Customs examinations, the Food and Drugs Inspectors obtain samples of such food for examination whether they are fit for human consumption and take action to send them to the respective laboratories.

Two samples of such food should be obtained for such examination. One sample is sent to the laboratory and the other sample should be retained Imported Food in the Examination Unit situated in the Container Terminal. In view of the lack of adequate space for the storage of the second sample they are stacked unprotected in the Examination Unit. The following matters were observed.

- i. As fish, margarine, etc. needing refrigeration are kept in the same refrigerator, the food quality of the second sample could be affected.
- ii. Since the dispatch of the sample, it takes more than one month to obtain an examination report. If the first sample fails the examination, it is very difficult to locate the second sample due to the haphazard storage methodology.
- iii. A fee is charged by the Terminal Operator from every importer for the retention of containers in the Terminal. If a Container Terminal is available in the Port premises, a considerable income could be collected by the Sri Lanka Ports Authority, whilst the importers could get the imported goods released in a shorter period.

Indications

- i. Increased probability of food reaching the market before the issue of the examination reports.
- ii. Inability to take necessary action on food not fit for human consumption.
- iii. Even though the second sample retained by the Food and Drugs Inspectors are legally required to be available for second sample examination they are stacked without protection.

Recommendations

- i. Providing adequate accommodation along with other physical facilities including storage facilities to the Imported Food Examination Unit.
- ii. Investigate the reasons for the failure to cancel Personal Guarantees.
- iii. Take necessary steps to prevent the release of containers of food retained in the private stores to the market before the issue of examination reports.

Comments of the Sri Lanka Customs

Observation (Paragraph 3.6.1)

“When imported items of food are released on Personal Guarantees to the private stores of the importer on the recommendation of the Sri Lanka Standards Institution or the Food and Drugs Inspector, the laboratory examination for obtaining the approval of the Sri Lanka Standards Institution takes a long time. If the approval for the goods has been received after informing the importer of the conclusion of the Sri Lanka Standards Institution, the responsibility for the cancellation of the Personal Guarantee placed for the consignment and obtains the release of the consignment rests with the importer. If the Sri Lanka Standards Institution rejects the approval it is notified to the Sri Lanka Customs. The responsibility for the cancellation of the Personal Guarantee in such instances after the re-export or destruction of such consignment rests with the importer.

The follow up action on the Personal Guarantee is the responsibility of the staff of the respective Customs Office.”

“The consignments not approved by the Sri Lanka Standards Institution have been formally re-exported and most of the importers had not taken action to cancel their Personal Guarantees. Letters have been sent to such importers requesting them to produce the relevant documents.

Foods imported for local consumption are released to the stores of the importer after examination only on the approval or recommendation of the Sri Lanka Standards Institution and the Food and Drugs Inspector. Personal Guarantees are obtained from the importers when such releases are made. The follow-up those consignments is done by the Sri Lanka Standards Institution or the Food and Drugs Inspector.

Importers who have cleared the goods on personal guarantees and have failed to produce all documents and get the personal guarantees cancelled will not be allowed to obtain release of goods on personal guarantees any more.

Instructions have been issued to the officers to maintain the Registers of Personal Guarantees systematically and take follow-up action on such consignments.”

Observation (Paragraph 3.6.2)

“Examination of all containers are done at the Container Examination Yards GLI, GLII, Orugodawatta or HRC situated outside the Port. The instructions for the examination of the cargo are given by the Deputy Directors of Customs of the Screening Division in the Long Room.

The above Container Examination Yards are owned by the private sector and the facilities required for examination of goods are provided to the Sri Lanka Customs.

Normally the time taken for carrying a container from the exit gate of the Port to the Orugodawatta Container Yard is about 30 minutes. But it could take a longer time due to road blockages. Samples of good taken from the containers are taken to the laboratories under the control of the institutions carrying out examinations.

The Food Examination Unit of the Orugodawatta Yard is under the control of the Director General of Health Services and the facilities required for that should be requested by that Unit itself. In view of the complaints received with regard to the supply of container services by the Sri Lanka Ports Authority earlier and the difficulties faced in carrying out the Customs examinations, the use of Private Container Yards was resorted to whilst there are no container yards of the Government situated inside the Port premises.

A formal Format for the Personal Guarantees will be introduced in the future and steps such as the attachment of officers for follow-up action on consignments regularly, the proper maintenance of the Register of Personal Guarantees and the relevant documents, the issue of instructions to officers for the regular inspection of those and taking follow-up action will be taken.

On the receipt of the approval of the Ministry of Finance for the construction of a Cargo Examination Yard at the “Bloomendhal” it is expected to carry out the container examinations at that place.”

3.7 Examination of the Activities of Laboratories

The Laboratories of the State Institutions which are instrumental in the examination of the Chemical content and the inclusion of micro-organisms in the food of Sri Lanka execute an important function. In view of their importance those examinations should be done in accordance with the modern technology at the internationally recognized level. As important decisions are made based on the examination reports issued by such institutions, those should be at the reliable level. The observations on the functions of those institutions are given below.

3.7.1 Approved Analyst

In terms of Section 17 of the Food Act, No. 26 of 1980, the Government Analyst is the Approved Analyst for the purposes of the Food Act and any regulations made thereunder. The observations on the examinations done through the Government Analyst are as follows.

- (a) During the years 2012 and 2013, the Imported Food Examination Unit could get on 163 and 10 samples of imported food respectively, through the Government Analyst.
- (b) In view of the lack of analysis facilities in the Department of Government Analyst for the examination of heavy metals content of sugar, Imported Food Examination Unit had sent more than 450 samples of sugar to a private laboratory during the period 20 July 2013 to 10 September 2013 for examination whether the sugar contained any heavy metal according to the observations made by the Audit.
- (c) The payments to the laboratories for examination of samples are made by the importers and as such the importers had paid a sum of Rs.5,625,000 at the rate of Rs. 12,500 per sample to the above laboratory during the period 20 July 2013 to 10 September 2013. The Government Analyst who is the Approved Analyst had refused to accept the samples for examination due to the lack of analysis facilities had resulted in the loss of revenue from the examination of sugar that should have accrued to the Government.

- (d) In addition to this matter, the Government Analyst did not have the analysis facilities for the examination of content of D.C.D. said to be in milk powder which caused a big provocation in the recent past, the samples had to be sent to a private laboratory. It was observed in Audit that 160 samples had been sent to the private laboratory during the period from 30 May 2013 to 15 October 2013 for the D.C.D. analysis. It was also observed that if the Government Analyst had such analysis facilities, the sum of Rs.4,640,000 at the rate of Rs.29,000 per sample paid by the importers could have been obtained by the Government.
- (e) Under such circumstances, a question of reliability of the examination reports obtained from such laboratories also emerges. It was observed that the examination reports obtained from Analysts other than the Approved Analyst may be an obstructive factor for legal proceedings.

3.7.2 Sri Lanka Standards Institution

Even though equipment used for food examination by the Food Examination Laboratory of the Sri Lanka Standards Institution are in good working condition they need frequent repairs as the maintenance and servicing are not done systematically on a timely basis.

The HPLC systems equipment in the laboratory is retained as an asset eliminated from use without being repaired as the manufacturer and the supplier of the equipment are no longer in business at present.

There were 06 Technology Officers in service in the staff of the Sri Lanka Standards Institution. Nevertheless, it was revealed that there were 13 officers in service in the year 1996. The laboratory required Technology Officers who have graduated in Chemistry. It was observed that filling such vacancies would help in the examination of many more samples and issue examination reports speedily.

Sri Lanka Customs had given 3,348 and 4,114 samples for examination in the years 2012 and 2013 respectively to the IEI and EIS Divisions of the Sri Lanka Standards Institution. According to the Progress Reports, both Divisions had issued only 1,691 and 2,046 Sample Examination Reports in the years 2012 and 2013 respectively. In addition the examination of a part of the samples received for examination are done through the Industrial Technology Institute.

3.7.3 Medical Research Institute

Even though the Laboratory of this Institute receives samples very often and carried out several examinations, the following deficiencies existing in that Unit pointed out by its Head from time to time in the year 2013 had not been attended to even by 31 January 2014

- i. Dearth of Medical Laboratory Technologists
- ii. Non-conduct of Endotoxin Assay Dialysis Fluids and Establishment of Molecular Detection Methods Researches
- iii. Inadequacy of Laboratory space
- iv. Dearth of Examination Reports Storage facilities
- v. Dearth of Office Equipment

Indication

- i. In view of the lack of facilities in the laboratories for the examination of the food imported to Sri Lanka, increase of the risk of food not fit for human consumption reaching the market.
- ii. In view of the scarcity of the resources of laboratories there are increasing trends in the delays in the issue of examination reports of samples.

Recommendations

- i. Recruitment of Technologists according to the requirements.
- ii. Introduction of the following examination facilities to the Food Laboratory of the Medical Research Institute.
 - * Endotoxin Assay Dialysis Fluid
 - * Establishment of Molecular Detection Methods

- iii. Providing adequate space for the Food Laboratory of the Medical Research Institute.
- iv. Providing the necessary office equipment for the Food Laboratory of the Medical Research Institute.

Comments of the Ministry of Health, Nutrition and Indigenous Medicine

Not responded

Comments of the Sri Lanka Standards Institutions

Observation (Paragraph 3.7.1)

“Out of the different categories of equipment used by the Food Laboratory of the Sri Lanka Standards Institution for carrying out food related examinations, the old equipment which are still usable despite lacking in soft functioning, cannot be disposed of.

Even though they should be properly maintained and fitted with new spare parts for the enhancement of the efficiency of the equipment, it takes a very long time to place orders and obtain them.

Equipment such as HPLC which cannot be repaired any more should be eliminated and new equipment have to be purchased for replacement.

It is not necessary to attach new officers until the establishment of the Food Laboratory.

Even though the laboratory services of Industrial Technology Institute are utilized only when the capacity of the Sri Lanka Standards Institution is full, a land has been purchased after considering the need for the establishment of a new laboratory complex.”

3.8 Food Control Administration Unit

The Food Control Administration Unit has been established for the implementation of the Orders and Recommendations of the Food Advisory Committee and for the execution of the administration functions of the Chief Food Authority. The observations in this connection are given below.

3.8.1 Chief Food Authority

In terms of Section 11(1) of the Food Act, No. 26 of 1980, the Director General of Health Services is the Chief Food Authority. Even though the areas of food and health are an interconnected subject, the assignment of the area of food with a very large scope to the post of Director General who handles a very large scope of activities in the Health Sector the responsibility and role of the Chief Food Authority has become complex.

3.8.2 Performance of the Food and Drugs Inspectors

Eight Food and Drugs Inspectors had been attached to the Imported Food Examination Unit in the years 2012 and 2013 and only three Inspectors had been attached to the Container Terminal situated at Orugodawatta which receives a larger number of containers for examination, that is, about 2,000 containers per month. Their functions included obtaining samples and the maintenance of physical examination reports and each Inspector has to examine about 23 containers per day. It was observed in Audit that due to such heavy work load of the Food and Drugs Inspectors that every container is not physically examined whilst in certain instances the samples are obtained by the Wharf Clerks themselves.

Even though 12 Food and Drugs Inspectors had been approved for carrying out food examination activities of the Food Control Administration Unit at the Port of Colombo and the Airport at Katunayake the actual number deployed in service had been only 7 Inspectors. As such there were vacancies in 05 posts.

3.8.3 Adequate Training not provided to Food and Drugs Inspectors for updating the Awareness of Duties and Responsibilities

Apart from the training provided to the Food and Drugs Inspectors at the recruitment, a structured Training Programme for the improvement of their performance had not been implemented. No training programme whatsoever had been implemented for those officers in the years 2012 and 2013

Indications

- i. In view of the dearth of the Food and Drugs Inspectors the possibility of issue of stocks of food unfit for human consumption to the market exists.
- ii. The effectiveness of the activities diminishes due to assigning heavy work loads to officers.

Recommendations

- i. Increase the number of officers attached to the Imported Food Examination Unit at the Orugodawatta Container Terminal and the appointment of an Office Aide.
- ii. The duties of the Director General of Health Services functioning as the Chief Food Authority has become complex, paying attention to the alternative course of action in that connection is needed.
- iii. Implementation of a structured Training Programme for the Food and Drugs Inspectors.

Comment of the Ministry of Health, Nutrition and Indigenous Medicine

Observation (Paragraph 3.8.3)

“It would be more important if it could continue further as follows.

The Food and Drugs Inspectors should be provided with training at local level as well as internationally on their duties and functions from time to time as they deal with activities important both at the national level and international level such as the import examinations, export examinations and legal matters. Even though foreign training was provided to the Food and Drugs Inspectors in the early stages, no foreign training had been provided during the 5 preceding years.”

4. Conclusion

- i. Regulations have been formulated in accordance with the provisions in the Food Act, No. 26 of 1980 for the import of quality food in to the country and make them available to the consumer, and the Director General of Health Services functions as the Chief Food Authority for the implementation of those regulations. Nevertheless it is concluded that the efficiency and the effectiveness of the implementation of the regulations for the importation of quality food to the country by the Food Control Administration Unit functioning under his supervision is inadequate and **needs the strengthening of the process for obtaining samples and referring them for examination and the improvements of the supervision process.**

- ii. It is concluded that the efficiency and the effectiveness of the action taken by the Sri Lanka Customs under the purview of the Director General of Customs who functions as the Authority for the imported food in terms of the Food Act, No. 26 of 1980 and the Import and Export (Control) Act, No. 1 of 1969 to ensure the quality of food imported is also inadequate. Therefore, it is concluded that in order to avoid such situations, a centralized and updated database should be maintained among the Food Control Administration Unit functioning under the Director General of Health Services, Sri Lanka Standards Institution, the Sri Lanka Atomic Energy Board and the other State Institutions carrying out examination of food samples to ensure, in the case of imported food, that quality food is released to the market whilst those unfit for human consumption is either destroyed for re-exported.

- iii. Even though the Government Analyst as the approved analyst the purposes of the Food Act, No 26 of 1980 and the regulations made under the Act, lack of facilities for the examination of certain contents of food with him had rendered it difficult in carrying out certain examinations effectively. Therefore it is concluded that the role of his Department should be strengthened by providing the required modern facilities.